

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
Civil Action# 20-cv-3269

Total Deleted Page(s) = 13
Page 17 ~ Referral/Consult;
Page 18 ~ Referral/Consult;
Page 19 ~ Referral/Consult;
Page 20 ~ Referral/Consult;
Page 21 ~ Referral/Consult;
Page 22 ~ Referral/Consult;
Page 23 ~ Referral/Consult;
Page 42 ~ Referral/Consult;
Page 43 ~ Referral/Consult;
Page 44 ~ Referral/Consult;
Page 45 ~ Referral/Consult;
Page 46 ~ Referral/Consult;
Page 47 ~ Referral/Consult;

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airtel

11/29/74

1 - Computer Systems
Division

To: SAC, Boston (179-1332)

From: Director, FBI

b6 - 2
b7C - 2

ETAL

- VICTIM

b6 - 7
b7C - 7
b7D - 1

OO: Boston

ReBStel 11/26/74 and Butelcall to Boston 11/27/74.

Emergency authority with respect to the utilization of the body recorder and/or transmitting device on the person of [redacted] to be used in conversations with the individuals mentioned in retel is granted as of 11/27/74, and a request is being forwarded to the Justice Department for an additional 30 days. You will be advised when the authorization from the Justice Department is received.

b6 - 5
b7C - 5
b7D - 1

Bureau authority concerning the [redacted] is also granted.

b7E - 1

The Bureau should be apprised of any important developments regarding this matter.

b7E - 1

NOTE: Body recorder and [redacted] requested by Boston in retel was approved on note dated 11/27/74. Boston Supervisor [redacted] was advised by Supervisor [redacted] on 11/27/74.

b6 - 1
b7C - 1

RFH:bam
(5)

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.: _____
Admin. _____
Comp. Syst. _____
Ident. _____
Inspection _____
Intell. _____
Laboratory _____
Plan. & Eval. _____
Spec. Inv. _____
Training _____
Legal Coun. _____
Telephone Rm. _____
Director Sec. _____

CH 20
REC-74
MCT-28

RECEIVED: GFRAS

179-1143

NOV 29 1974

NOV 29 1974

MAILED 7

NOV 29 1974

FBI

10 DEC 2 1974

DEC 2 1974

TELETYPE UNIT ☐

FBI(20-cv-3269)-1

33 DEC 8 1014

F B I
U.S. DEPT. OF JUSTICE

Nov 29 11 08 AM '74

RECEIVED-CLEVELAND

(S)
BAM:pm

b6 - 1
b7C - 1
b7E - 1

[REDACTED] ON 11/29/74
[REDACTED] AND [REDACTED] PR [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

STATION
I - CLEVELAND, OHIO

artel

EX-101

12/10/74

1 - Computer Systems Division

To: SAC, Boston (179-262)

From: Director, FBI

179-1143-2

b6 - 2, 7
b7C - 2, 7
b7D - 1

[REDACTED]

VICTIM

ET AL

RE: [REDACTED]

OO: Boston

Re Bureau airtel to Boston 11/29/74 and Boston teletype to Bureau 12/10/74.

Bureau authority concerning the [REDACTED]

b7E - 1

Insure that the Bureau is advised of all pertinent developments regarding this matter.

NOTE: [REDACTED] in this case, is an [REDACTED] group [REDACTED] and owes juice payments to [REDACTED] group [REDACTED] hoodlums. He has received the [REDACTED] from the various [REDACTED] group [REDACTED]

b6 - 5
b7C - 5
b7D - 1
b7E - 1, 2

MAILED 6
DEC 10 1974
FBI

[REDACTED]

Special Investigative Division concurs with SAC Boston's request for [REDACTED]

b7E - 1

RFH:bam
(5)

RECEIVED - DECEMBER 10, 1974

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.: _____
Admin. _____
Comp. Syst. _____
Ext. Affairs _____
Files & Com. _____
Gen. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Plan. & Eval. _____
Spec. Inv. _____
Training _____
Legal Coun. _____
Telephone Rm. _____
Director Sec'y _____

58 JAN 6 1975

MAIL ROOM

TELETYPE UNIT

FBI(20-cv-3269)-3

FBI
U.S. DEPT OF JUSTICE

DEC 10 4 44 PM '74

RECEIVED-CLEVELAND

b6 - 5
b7C - 5
b7D - 1
b7E - 1, 2

(1)
TMM:pm

Boston's address for [redacted]
Special Investigative Division Council with [redacted]

[redacted] of a recognized source on the basis of [redacted]
to [redacted] and supported. [redacted] on [redacted] [redacted]
in [redacted] to become a [redacted] and [redacted] [redacted]

[redacted] [redacted] [redacted] [redacted] [redacted] [redacted]
through [redacted] [redacted] [redacted] [redacted] [redacted] [redacted]

[redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted]

[redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted]
[redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted]
[redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted]

[redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted]
[redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted]

1 - [redacted] [redacted] [redacted] [redacted]

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

Assoc. Dir.	_____
Dep. A.D. Adm.	_____
Dep. A.D. Inv.	_____
Asst. Dir.:	
Admin.	_____
Comp. Syst.	_____
Ext. Affairs	_____
Files & Com.	_____
Gen. Inv.	_____
Ident.	_____
Inspection	_____
Intell.	_____
Laboratory	_____
Plan. & Eval.	_____
Spec. Inv.	_____
Training	_____
Legal Coun.	_____
Telephone Rm.	_____
Director Sec'y	_____

NR003 ES PLAIN

DEC 10 1974

2:35 AM DECEMBER 10, 1974

TELETYPE

NITEL DECEMBER 9, 1974 JKG

TO: DIRECTOR

FROM: BOSTON (179-262) (P)

CHANGED: [REDACTED] ET AL; ECT.

TITLE MARKED CHANGED TO LIST CORRECT SPELLING OF
SUBJECT [REDACTED] LAST NAME.

b6 - 2
b7C - 2

RE BUREAU AIRTELS, NOVEMBER 29, 1974 AND DECEMBER 3,
1974.

VICTIM, ON DECEMBER 2, 1974, MADE PARTIAL BACK JUICE
PAYMENTS TO SUBJECT [REDACTED]

[REDACTED] VICTIM WORE TRANSMITTING
DEVICE AND CONVERSATIONS RECORDED. VICTIM SURVEILLED
MAKING PAYMENTS. **EX-101** **REC-16** **179-1143-2**

b6 - 2, 5
b7C - 2, 5
b7D - 1

ALL SUBJECTS HAVE PREVIOUSLY THREATENED VICTIM
OVER TELEPHONE AND BOSTON INTENDS TO ALLOW JUICE
PAYMENTS TO BECOME DELINQUENT AND ANTICIPATES ADDITIONAL
TELEPHONIC THREATS FROM SUBJECTS.

b6 - 1
b7C - 1

TO INSURE SECURITY OF VICTIM, BOSTON INTENDS TO

*Airtel to BS
12/10/74
RF#bam*

14 DEC 1

NINE

FBI
U.S. DEPT OF JUSTICE

DEC 10 3 41 PM '74

RECEIVED-CLEVELAND

FBI
U.S. DEPT OF JUSTICE

DEC 10 4 23 AM '74

RECEIVED-CLEVELAND

Mr. Tolson	
Mr. DeLoach	
Mr. Mohr	
Mr. Bishop	
Mr. Casper	
Mr. Callahan	
Mr. Conrad	
Mr. Felt	
Mr. Gale	
Mr. Rosen	
Mr. Sullivan	
Mr. Tavel	
Mr. Trotter	
Tele. Room	
Mr. Holmes	
Miss Gandy	

FBI(20-cv-3269)-6

PAGE 1

BS 179-262

[REDACTED] WITH USE OF [REDACTED]

[REDACTED] PRESENTLY BEING OBTAINED FROM LAB. IN THIS
MANNER, SUBJECT WILL [REDACTED]

b6 - 2, 5
b7C - 2, 5
b7D - 1
b7E - 2

[REDACTED] AND WILL BE IN POSITION TO LEAVE A TELEPHONE
NUMBER WHERE SUBJECTS CAN CONTACT HIM. IN THIS CONNECTION,
BECAUSE OF [REDACTED] HAS LEFT
MESSAGE WITH VICTIM'S GIRL FRIEND TO HAVE VICTIM CALL
[REDACTED]

PERSONAL CONTACT BY VICTIM WITH SUBJECTS BEING
KEPT TO MINIMUM AT PRESENT. LATER PERSONAL CONTACT WITH
TARGETED SUBJECTS WILL BE MADE BY VICTIM WITH USE OF
BODY RECORDER AND/OR TRANSMITTING DEVICE.

BOSTON HAS [REDACTED]

[REDACTED] ARE ANTICIPATED IN CONNECTION WITH [REDACTED]

b7E - 1

[REDACTED] BOSTON
CONTINUING TO [REDACTED] AND BUREAU WILL BE
KEPT ADVISED OF ALL PERTINENT DEVELOPMENTS.

FBI(20-cv-3269)-7

CRIM INTELL SEC
SPECIAL INVEST DIV

Dec 13 4 25 PM '74

F.B.I.
U.S. DEPT. OF JUSTICE

FBI
U.S. DEPT. OF JUSTICE
DEC 16 10 51 AM '74
RECEIVED-CLEVELAND

FBI(20-cv-3269)-8

PAGE THREE

BS 179-262

BUREAU REQUESTED TO IMMEDIATELY AUTHORIZE ADDITIONAL

b7E - 1

END

EJF FBIHQ 1.

FBI(20-cv-3269)-9

CRIM INTELL SEC
DEC 10 1 01 AM '74
U S DEPT OF JUSTICE

RECEIVED
TELETYPE UNIT
DEC 16 2 36 AM '74

FBI(20-cv-3269)-10

airtel

12/13/74

1 - Computer Systems Division

To: SAC, Boston (179-262)

From: Director, FBI 179-1143

b6 - 2, 7
b7C - 2, 7
b7D - 1

REC-51
[redacted] CTIM
ECT
OO: Boston

Re Boston teletype to Bureau 12/13/74.

Bureau authority concerning the additional [redacted] b7E - 1

Insure that the Bureau is advised of all pertinent developments regarding this matter.

b6 - 5
b7C - 5
b7D - 1
b7E - 1

NOTE: [redacted] in this matter, is the [redacted]
[redacted] and owes juice payments to [redacted]
hoodlum groups. He has received threats from the hoodlums
regarding failure to make the payments. Boston has [redacted]

Special Investigative Division concurs with SAC
Boston's request for an [redacted]

b7E - 1

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir. _____
Admin. _____
Comp. Syst. _____
Ext. Affairs _____
Files & Com. _____
Gen. Inv. _____
Ident. _____
Inspection _____
Intell. _____

RFH:bam
(5)

MAILED 5
DEC 16 1974
FBI

MAIL ROOM ☐

TELETYPE UNIT ☐

GP 954-546
FBI(20-cv-3269)-11

DEC 16 1950
MAIL ROOM

FBI
U.S. DEPT OF JUSTICE

DEC 16 12 24 PM '70

۱۰۰

b6 - 5
b7C - 5
b7D - 1
b7E - 1

ИМЯ : [REDACTED] АТОРШУ ИУ РИТА МЕРСОН' ТЕ ГРЕ [REDACTED]

52-93

I - COLLEGE BUDGET 1960

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NR 019 BS PLAIN

7:50 PM NITEL 12-13-74 DAW

TO: DIRECTOR

FROM: BOSTON (179-262) P

DEC 13 1974

TELETYPE

b6 - 2, 7
b7C - 2, 7
b7D - 1

Assoc. Dir.	_____
Dep. A.D.-Adm.	_____
Dep. A.D.-Inv.	_____
Asst. Dir.:	_____
Admin.	_____
Comp. Syst.	_____
Ext. Affairs	_____
Files & Com.	_____
Gen. Inv.	_____
Ident.	_____
Inspection	_____
Intell.	_____
Laboratory	_____
Plan. & Eval.	_____
Spec. Inv.	_____
Training	_____
Legal Coun.	_____
Telephone Rm.	_____
Director Sec'y	_____

[REDACTED] VICTIM, ET AL, ECT,

OO: BOSTON

RE BOSTON TT TO BUREAU DATED DECEMBER 10, 1974, AND
BUREAU TT TO BOSTON DATED DECEMBER 10, 1974.

ON DECEMBER 10, 1974, VICTIM, PER SUBJECT [REDACTED]
REQUEST, TELEPHONICALLY CONTACTED HIM. [REDACTED] INSTRUCTED
VICTIM TO CALL SUBJECT [REDACTED] RELATIVE TO SUBJECTS
[REDACTED] AND "WHITEY" BULGER. BOTH CONVERSATIONS MONITORED,
RECORDED, AND CONSIDERED HIGHLY INCRIMINATORY. SUBJECTS

b6 - 1
b7C - 1

[REDACTED] REQUESTED VICTIM REMAIN IN AT LEAST
TELEPHONIC CONTACT. [REDACTED] ARE TO BE
RECONTACTED AND FURNISH TELEPHONE NUMBER AT WHICH VICTIM
CAN BE REACHED.

b6 - 2, 5
b7C - 2, 5
b7D - 1
b7E - 2

ACCORDINGLY.

VICTIM TO CALL [REDACTED]

OKAYED

b6 - 2, 5
b7C - 2, 5
b7D - 1

WITH SUBJECTS [REDACTED]

IT IS BELIEVED

[REDACTED] HAS BEEN FORCED TO PAY "JUICE" FOR VICTIM. VICTIMC 26 1974

Airtel to BS
12/16/74
RFH:bam

PAGE TWO BS 179-262

WILL ALSO FURNISH [REDACTED] WITH TELEPHONE NUMBER HE CAN
BE CONTACTED AT.

b6 - 2, 5
b7C - 2, 5
b7D - 1

IT IS ANTICIPATED [REDACTED] WILL
FURNISH TELEPHONE NUMBER TO OTHER SUBJECTS.

[REDACTED] N RE BUREAU AIRTEL

[REDACTED] ADDITIONAL

[REDACTED] ARE ANTICIPATED FOR [REDACTED]

b7E - 1, 2

[REDACTED] WILL BE MINIMIZED.

BUREAU IS REQUESTED TO [REDACTED]

[REDACTED] BOSTON FEELS

MATTER PRESENTS OUTSTANDING POTENTIAL FOR ECT PROSECUTIONS
RE MAJOR O.C. FIGURES INVOLVED.

END

F B I
U S DEPT OF JUSTICE
DEC 13 3 36 PM '74
RECEIVED-CLEVELAND

FBI

RE NATIONAL O RIGINER INADVERT

RECEIVED 12 13 1974 STANDING POLITICAL FOR FBI PROSECUTIONS

[REDACTED] POLITICAL MATTERS

b6 - 2, 5
b7C - 2, 5
b7D - 1
b7E - 1, 2

RECEIVED 12 13 1974

AND [REDACTED] WILL BE RECALLED

ARE APPLICABLE FOR

ADDITIONAL

IN RE BUREAU VICTIM

ADDITIONAL INFORMATION WOULD BE OTHER SOURCES

IN RE BUREAU VICTIM

RE CONTACTED BY

RECEIVED 12 13 1974

RECEIVED 12 13 1974

airtel

1/3/75

1 - Computer Systems Div.

To: SAC, Boston (179-262)

From: Director, FBI

VICTIM

ET AL
ECT

EX 104

b6 - 2, 7
b7C - 2, 7
b7D - 1

Re Boston teletype to the Bureau 1/2/75.

b7E - 1

Bureau authority concerning the additional
[redacted] in retel is granted.

b6 - 5
b7C - 5
b7D - 1
b7E - 2

Insure that the Bureau is advised of all pertinent
developments regarding this matter.

NOTE: [redacted] victim in this matter, is the [redacted]
[redacted] and owes juice payments to [redacted] hoodlum
groups in the Boston area. In the past he has received threats
from hoodlums regarding failure to make the payments and Boston
has [redacted] by the Boston
office in order to [redacted]

[redacted] Boston is consensually
monitoring the victim [redacted] telephone [redacted]

[redacted] and the victim is
continually receiving income [redacted] calls from individuals from whom
he obtained the loans. Boston believes the conversations [redacted]
recorded corroborate the victim's potential testimony; however,
the Boston office [redacted] is that this matter should be continued
in order to obtain additional incriminating evidence on major
organized crime figures. Boston has directed the victim to let
the juice payments slide in order that he will eventually
receive threatening calls of an evidentiary nature.

Boston has [redacted] to date and due
to the fact that the [redacted] is due on
1/11/75 [redacted] Boston requests authorization of

Special Investigative Division concurs with SAC
Boston's request for [redacted]

b7E - 1

RFH:bam
(5)

MAILED 5
JAN 3 1975
FBI

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.: _____
Admin. _____
Comp. Sys. _____
Ext. Affairs _____
Files & Com. _____
Gen. Inv. _____
Ident. _____
Inspection _____
Intell. _____
Laboratory _____
Plan. & Eval. _____
Spec. Inv. _____
Training _____
Legal Coun. _____
Telephone Rm. _____
Director Sec'y _____

54 JAN 16 1975
MAIL ROOM

TELETYPE UNIT

FBI(20-cv-3269)-23
GPO 554-546

FBI
U.S. DEPT. OF JUSTICE

b6 - 5
b7C - 5
b7D - 1
b7E - 1, 2

Don't make a mistake like [redacted]
[redacted] [redacted] [redacted] [redacted] [redacted] [redacted]

T. J. [REDACTED] 100-01 ENCLAND [REDACTED] support [REDACTED] of
 so far [REDACTED] [REDACTED] [REDACTED] [REDACTED]
 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[illegible]

[REDACTED] MR. JIM ALLEN IN
CONNECTION WITH THE [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]

THE PROTECTIVE COUNCIL HAS NOTHING TO SAY TO THE PRESIDENT OF THE UNITED STATES
AND THE PRESIDENT HAS NOTHING TO SAY TO THE PROTECTIVE COUNCIL. THE PRESIDENT
HAS NOTHING TO SAY TO THE PROTECTIVE COUNCIL. THE PRESIDENT HAS NOTHING TO SAY TO THE
PROTECTIVE COUNCIL. THE PRESIDENT HAS NOTHING TO SAY TO THE PROTECTIVE COUNCIL.

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NR 0067BS CODE

5:12 PM NITEL 1-2-75 DAV

TO: DIRECTOR

FROM: BOSTON (179-262) P

JAN 02 1975

TELETYPE

b6 - 2, 7
b7C - 2, 7
b7D - 1

Assoc. Dir. _____
Dep.-A.D.-Adm. _____
Dep.-A.D.-Inv. _____
Asst. Dir.:
Admin. _____
Comp. Syst. _____
Ext. Affairs _____
Files & Com. _____
Gen. Inv. _____
Ident. _____
Inspection _____
Intell. _____
Laboratory _____
Plan. & Eval. _____
Spec. Inv. _____
Training _____
Legal Coun. _____
Telephone Rm. _____
Director Sec'y _____

VICTIM, ET AL, ECT

RE BUREAU AIRTEL TO BOSTON DATED DECEMBER 16, 1974 AND
BOSTON AIRTEL TO BUREAU DATED DECEMBER 17, 1974.

RE BOSTON AIRTEL WITH ENCLOSED LHM SET FORTH FACTS OF
THIS MATTER AS DEVELOPED TO DECEMBER 19, 1974. SINCE THAT
DATE, THE FOLLOWING HAS DEVELOPED:

ON DECEMBER 19, 1974, VICTIM WHILE WEARING ON-THE-BODY
RECORDE MADE PERSONAL CONTACT WITH

IS FORMER

OWNED BY

ON EACH OCCASION.

BOSTON USING

WHICH WAS EFFECTIVELY SINCE
THAT DATE VICTIM HAS RESUMED PLACING TELEPHONE CALLS "PUTTING
OUT" TELEPHONE NUMBER AT WHICH HE CAN BE REACHED. ON THAT

b6 - 1
b7C - 1

b6 - 2, 5
b7C - 2, 5
b7D - 1

b7E - 2

REC-71

EX 104

JAN 7 1975

FBI(20-cv-3269)-25

PAGE TWO BS 175-262

DATE, INCOMING TELEPHONE CALL RECEIVED FROM [REDACTED]

b6 - 2, 5
b7C - 2, 5
b7D - 1

[REDACTED] AMONG OTHER ADMISSIONS ACKNOWLEDGED

[REDACTED] LEFT FOR HIM AT THE [REDACTED]

[REDACTED] BY VICTIM ON DECEMBER 2, 1974.

ON DECEMBER 28, 1974, VICTIM RECEIVED INCOMING TELEPHONE
CALL FROM [REDACTED] ON DECEMBER 30, 1974,
VICTIM PLACED CALL TO [REDACTED] BRIEFLY DISCUSSED
LOAN, AND LEFT TELEPHONE NUMBER FOR [REDACTED]

b6 - 2, 5
b7C - 2, 5
b7D - 1

[REDACTED] TO CONTACT HIM AT. VICTIM IN [REDACTED]
LOAN PRIMARILY WITH [REDACTED]

ON DECEMBER 30, 1974, VICTIM RECEIVED INCOMING TELEPHONE
CALL FROM [REDACTED] ALSO ON DECEMBER 30, 1974, VICTIM
RECEIVED INCOMING TELEPHONE CALL FROM [REDACTED] WHO AT ONE
POINT TURNED PHONE OVER [REDACTED]

ON [REDACTED] VICTIM RECEIVED INCOMING TELEPHONE
CALL FROM [REDACTED] VICTIM PER REQUEST OF [REDACTED] RETURNED
TELEPHONE CALL TO [REDACTED] DURING THIS
CONVERSATION, [REDACTED] ADMITTED ONE HALF OF LOAN FROM
[REDACTED] WAS HIS MONEY. VICTIM ON THAT DATE

b6 - 2, 5
b7C - 2, 5
b7D - 1

TELEPHONICALLY CONTACTED [REDACTED] ADVISED HE
HAD BEEN PAYING VICTIM'S "JUICE" SINCE NOVEMBER 1, 1974, TO

[REDACTED] ADMITTED
HE IS ALSO IN DEBT TO [REDACTED]
[REDACTED]

b6 - 2, 5
b7C - 2, 5
b7D - 1

ALL THE ABOVE CONVERSATIONS CONSIDERED HIGHLY
INCRIMINATORY AND WILL CORROBORATE VICTIM'S POTENTIAL TESTIMONY.
AT PRESENT, VICTIM HAS BEEN IN EITHER DIRECT OR INDIRECT
CONTACT WITH PRINCIPAL SUBJECTS IN THIS MATTER. LOANS AND
DETAIL INFORMATION RE LOANS HAS BEEN CORROBORATED ON MAJORITY
THROUGH [REDACTED] SATIONS TO DATE. BOSTON DIRECTING VICTIM
NOT TO CONTACT SUBJECTS AND LET "JUICE" PAYMENTS CONTINUE TO
SLIDE. IT IS ANTICIPATED TELEPHONE CALLS OF THREATENING
NATURE WILL DEVELOP NOW THAT VICTIM CAN BE CONTACTED BY
SUBJECTS.

ADDITIONAL [REDACTED] AUTHORIZED IN RE BUREAU
AIRTEL NOT [REDACTED]

b7E - 1, 2

[REDACTED] MISCELLANEOUS
[REDACTED] INCURRED TO DATE AND THOSE ANTICIPATED PRIOR TO
JANUARY 11, 1975 WILL NOT LEAVE [REDACTED]

[REDACTED] BUREAU REQUESTED TO AUTHORIZE [REDACTED]

[REDACTED] BOSTON CONTINUES
TO FEEL MATTER PRESENTS OUTSTANDING POTENTIAL RE PROSECUTION
OF MAJOR OC FIGURES, ESPECIALLY IN VIEW OF RECENT DEVELOPMENTS
AS SET OUT ABOVE.

END

RECEIVED
TELETYPE UNIT
JAN 2 1975
PM 1:15

[illegible]

Assistant Attorney General
Criminal Division

December 27, 1974

EX-103

Director, FBI

REC-73

b6 - 1, 2
b7C - 1, 2

1 - Mr.
1 - Mr.
1 - Mr.
1 - Mr.
1 - Mr.

AND OTHERS
EXTORTIONATE CREDIT TRANSACTIONS

ACTION MEMORANDUM

Reference is made to this Bureau's memorandum dated November 29, 1974, captioned as above, which requested your authorization for a 30-day period regarding the utilization of a body recorder and transmitter on the person of [redacted] Deputy Assistant Attorney General Henry S. Dogin granted the authorization on December 2, 1974, for a 30-day period.

b6 - 5
b7C - 5
b7D - 1

This matter involves several [redacted] has received from different hoodlum groups in the [redacted] area in which he has been making juice payments.

The referenced memorandum included names of thirteen subjects. Our Boston office has furnished the following information with regard to correct names of some of the individuals. The names of two additional subjects, [redacted] correct name [redacted]

b6 - 2
b7C - 2

[redacted] correct name [redacted] and the two additional subjects are [redacted]

[redacted] has made partial payments at [redacted] and [redacted] place of business and the recording device recorded conversations that will corroborate his testimony. In addition, a consensual recording device on his telephone has been monitored which has also produced conversations of an evidentiary nature.

b6 - 2, 5
b7C - 2, 5
b7D - 1

RFH:
(9)

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir. _____
Admin. _____
Comp. Syst. _____
Ext. Affairs _____
Files & Com. _____
Gen. Inv. _____
Ident. _____
Inspection _____
Intell. _____
Laboratory _____
Plan. & Eval. _____
Spec. Inv. _____
Training _____
Legal Coun. _____
Telephone Rm. _____
Director Sec'y _____

MAIL ROOM

b6 - 1
b7C - 1



Hand carried to 16 Criminal
12-27-74 [redacted] FBI(20 cv 3269) 29

RECEIVED S. DEPT. OF JUSTICE
FBI

Dec 27 10 45 AM 1974
9 34 AM '75

LEGAL COUNSEL

RECEIVED CLEVELAND

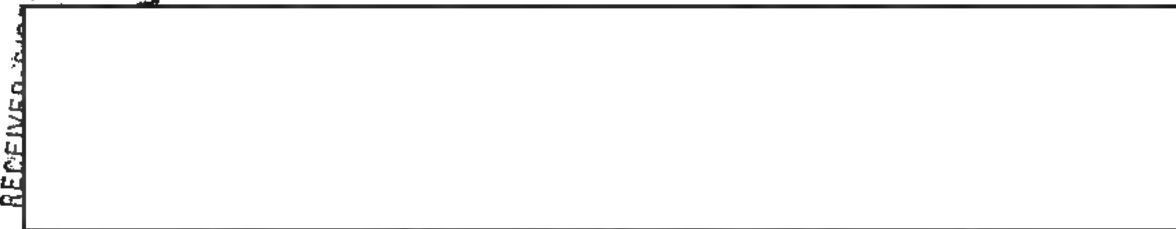
RECEIVED

FBI
U.S. DEPT. OF JUSTICE
Dec 27 11 40 AM '74

Dec 27 10 32 AM '74
ASSOCIATE DIRECTOR



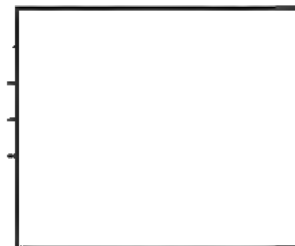
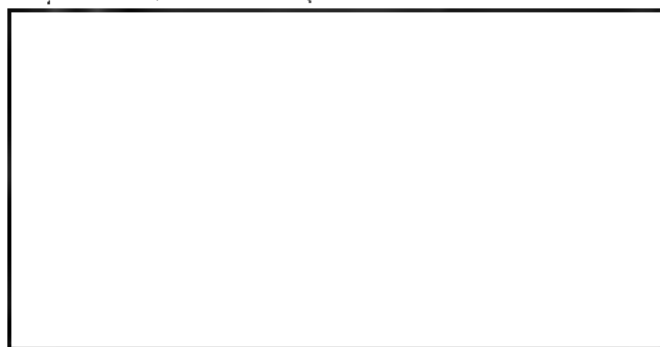
b6 - 2, 5
b7C - 2, 5
b7D - 1



CRIM INTELL SEC
SPECIAL INVEST DIV



b6 - 2, 5
b7C - 2, 5
b7D - 1



b6 - 1
b7C - 1

**Assistant Attorney General
Criminal Division**

Due to the large number of subjects involved in this matter, Departmental Attorney [] has requested an extension of 30 days for the utilization of the body recorder and transmitter in order to obtain solid corroborative evidence with regard to a violation of the Extortionate Credit Transactions Statute.

b6 - 4
b7C - 4

Your authority is requested for the utilization of the recording device on the person of [] in conversations with the fifteen subjects mentioned herein and the referenced communication.

b6 - 7
b7C - 7
b7D - 1

FBI

Date: 12/19/74

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL _____
(Priority)

TO: DIRECTOR, FBI

FROM: SAC, BOSTON (179-262) (P)

SUBJECT: CHANGED

JAMES J. BULGER, aka
"Whitey"; BULGER

b6 - 2, 7
b7C - 2, 7
b7D - 1

a MASSMASSMASSMASS

ALG-73
IM

ECT
OO:BS

EX-103

CH 44

MCT-17/79-1143-6

Title marked CHANGED to reflect middle name of
middle initial of JAMES J. BULGER.

first name of
first name of

additional subject

middle name of

② Bureau (Encs. 4)
2 Boston
JMM:mm
(4)

let to 6.0
12/21/74
RTH:bam

7-7-75
DEC 21 1974

b6 - 2
b7C - 2

b6 - 1
b7C - 1

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

U.S. Government Printing Office: 1972-455-574

FBI(20 cv-3269)-32

F B I
U.S. DEPT OF JUSTICE

Dec 21 4 57 PM '74

RECEIVED-CLEVELAND



BS 179-262

true name. [redacted]

identity of [redacted]

b6 - 2

correct spelling [redacted]

b7c - 2

last name and include middle initial of [redacted]

and include middle initial for [redacted]

Re Boston teletype to the Bureau dated 11/26/74
and Bureau airtel to Boston dated 11/29/74.

Enclosed are four copies of an LHM setting forth
facts as developed by investigation to date.

Two conversations have been recorded using an
on-the-body recorder since request for utilization on-the-
body recorder. Recorded conversations will corroborate
victim's testimony.

Departmental Attorney [redacted], Chief,
New England Organized Crime Strike Force, Boston, Mass.,
requests Bureau obtain Department of Justice authority
to extend authorization for use of on-the-body recorder
and transmitting device for additional 30 day period.

b6 - 4

b7c - 4



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No.

Boston, Massachusetts

December 19, 1974

[redacted] : JAMES J. BULGER;

b6 - 2, 7
b7C - 2, 7
b7D - 1

[redacted] - VICTIM

[redacted] indebted to captioned subjects

b6 - 2, 5
b7C - 2, 5
b7D - 1

and [redacted] with remainder of subjects conspiring with the above in either the collection, furnishing money, or arranging loans. Victim [redacted]

Victim incurred debts as a result of [redacted]

[redacted] Victim has [redacted]

[redacted] and unable to secure loans from any legitimate source. Victim has been threatened with bodily harm by subjects and was on one occasion "slammed around" and told to pay his debts. Victim was [redacted]

b6 - 2, 5
b7C - 2, 5
b7D - 1

in order to satisfy back "juice" on loan from [redacted]

Victim currently acting in undercover capacity at direction of Bureau Agents and has telephonically contacted majority of subjects. These conversations were monitored and recorded and considered highly incriminatory.

b6 - 2, 5
b7C - 2, 5
b7D - 1

On December 2, 1974, victim made partial payments of back juice at subjects [redacted] place of business in amounts of [redacted] Payments surveilled and victim wore transmitting device for security. Conversations which took place were recorded and will corroborate victim's potential testimony.

ENCLOSURE

179-1143-6

FBI(20-cv-3269)-35

[REDACTED] JAMES J. BULGER;

b6 - 2, 7
b7C - 2, 7
b7D - 1

[REDACTED]
VICTIM

Since date of payments, victim has been in telephonic contact with subjects [REDACTED]. They confirm word has circulated that victim paid [REDACTED]. They were furnished with a telephone number at which victim could be reached. It is anticipated victim will receive threats from subjects in order to collect their money.

b6 - 2, 5
b7C - 2, 5
b7D - 1

Personal meeting with subjects by victim planned for immediate future at which time conversations between victim and subjects will be recorded.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

2*

FBI

Date: 11/27/74

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL _____
(Priority)

TO: DIRECTOR, FBI ATTN: RADIO ENGINEERING SECTION

FROM: SAC, BOSTON (179-262) (P)

SUBJECT: [REDACTED]

JAMES BULGER, aka
"Whitey"

aka

aka

aka

VICTIM

ECT
00:BSb6 - 1
b7C - 1b6 - 2, 7
b7C - 2, 7
b7D - 1b6 - 1
b7C - 1

Re Boston telephone call to [REDACTED] on

11/26/74.

REC-46

MCT-31

179-1143-

The FBI Lab is requested to furnish to Boston an

b6 - 2
b7C - 2

b7E - 2

NOV 29 1974

CH 38

b6 - 1
b7C - 1

SEVENTH

NINE

Approved: *[Signature]*

Special Agent in Charge

Sent _____ M Per _____

U.S. Government Printing Office: 1972 - 455-574

FBI(20-cv-3269)-37

MAR 10 1975

100 RAD. ENG. SECT
1/28/75
2 Bureau
2 Boston
MWS:mm
(5)*12/3/74 hold shipment
pending developments
WWS**See index*

INCONS FEB 18 1975
out cons 3/10/75 *Hand to Cons 2/6/75*

FBI
U.S. DEPT. OF JUSTICE

RECEIVED

DEC 2 10 43 AM '74 JAN 28 5 25 PM '75

RADIO ENGINEERING
FBI LABORATORY

RECEIVED
SPECIAL INVESTIGATIVE
DIVISION

JAN 30 1975

RECEIVED
NOV 29 6 08 PM '74
FBI
LABORATORY DIVISION

CRIMINELL SEC
JAN 29 9 19 AM '75
U.S. DEPT. OF JUSTICE

In connection with 179 investigation, Boston has developed a cooperative undercover witness. It is desirable for this witness to be able to receive telephone calls from the loanshark operations to which he is indebted. However, it is imperative that these individuals not be able to determine the location of this witness. Through previous investigation, it has been determined that the Organized Crime element has been able to obtain the locations of telephones even though it is requested that the service be non-published.

Boston intends to [redacted] so that the phone number of this location can be furnished to the loansharking operations but that the witness can be at a secure location which cannot be determined through telephone record checks. It is imperative that the person calling the [redacted] not be aware that the call has [redacted] It is desirable to be able to [redacted]

b7E - 2

181 77047108A
B7C10 ENG/VER/1110

10 10 10 10 10

RADIO ENGINEERING
FBI LABORATORY

RECEIVED 1962 OCT 10 10 10 AM
 DEPT OF COMMERCE
 BUREAU OF ECONOMIC ANALYSIS
 WASHINGTON, D. C. 20540

FBI(20-cv-3269)-40

airtel

12/3/74

To: SAC, Boston (179-262)

1 - Mr. [redacted]
1 - Mr. [redacted]

b6 - 1
b7C - 1

From: Director, FBI

REC-18

[redacted]

EX-117 179-1143-7X

BT AL

[redacted]

- VICTIM

b6 - 2, 7
b7C - 2, 7
b7D - 1

OO: Boston

ReBStel 11/26/74, Buairtel 11/29/74, and Butelcalls to Boston 11/27 and 12/2/74.

b6 - 7
b7C - 7

This is to confirm reBucall dated 11/27/74 granting emergency authority for the use of a body recording device on the person of [redacted] with his written consent.

b7D - 1

This will also confirm reBucall 12/2/74 confirming receipt of Deputy Assistant Attorney General Henry S. Dogin approval dated 12/2/74 in connection with the use of the body recording device for a period of 30 days for the purpose of recording conversations [redacted] may have with [redacted] James Bulger.

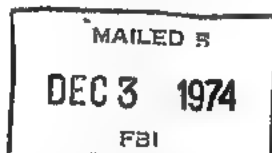
[redacted] and others relative to violations of ECT Statute and related offenses.

b6 - 2, 7
b7C - 2, 7
b7D - 1

Following expiration of the 30-day period authorized by the Deputy Assistant Attorney General or when the recording device is no longer required, the Bureau is to be promptly advised by letterhead memorandum suitable for dissemination of the results regardless of whether or not the information is of a positive nature.

SEE NOTE PAGE 2

RFH:bam
(6)



Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir. _____
Admin. _____
Comp. Syst. _____
Ext. Affairs _____
Files & Com. _____
Gen. Inv. _____
Ident. _____
Inspection _____
Intell. _____
Laboratory _____
Plan. & Eval. _____
Spec. Inv. _____
Training _____
Legal Coun. _____
Telephone Rm. _____
Director Sec'y _____

MAIL ROOM ☐

TELETYPE UNIT ☐

FBI(20-cv-3269)-47

Airtel to Boston

Re: [REDACTED] Et Al.

b6 - 2
b7C - 2

In the event a renewal of this authority is deemed to be warranted, submit your request with full justification for same at least seven days prior to the expiration of the existing authority.

NOTE: ReBucalls were from Supervisor [REDACTED]
Boston Supervisor [REDACTED]

to

b6 - 1
b7C - 1

Assistant Attorney General
Criminal Division

November 29, 1974

Director, FBI

1 - Mr.
1 - Mr.
1 - Mr.
1 - Mr.
1 - Mr.

b6 - 1, 2
b7C - 1, 2

AND OTHERS
EXTORTIONATE CREDIT TRANSACTIONS

ACTION MEMORANDUM

b6 - 5
b7C - 5
b7D - 1

[redacted] in Boston, Massachusetts, has advised our Boston office that he is paying juice payments on five separate loans which he obtained from five separate groups.

b6 - 2, 5
b7C - 2, 5
b7D - 1

According to our Boston office, the individuals identified by [redacted] as being engaged in loansharking activities are well-known Boston hoodlums. These individuals are [redacted] James Bulger.

[redacted] has fallen behind in all payments and has been threatened by several of the above-named individuals. The threats have included bodily harm and he is in constant fear for his life. He is willing to testify and has furnished written consent to be equipped with a body recorder in order to obtain corroborative evidence.

b6 - 5
b7C - 5
b7D - 1

Our Boston Agents have recently monitored telephone calls with [redacted] consent in which several of the subjects have discussed juice payments; however, no threats were made at the time of the calls.

b5 - 1
b6 - 4, 7
b7C - 4, 7
b7D - 1

This matter has been discussed with Strike Force Attorney [redacted]

RFH:bam
(9)

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.: _____
Admin. _____
Comp. Syst. _____
Ext. Affairs _____
Files & Com. _____
Gen. Inv. _____
Ident. _____
Inspection _____
Intell. _____
Laboratory _____
Plan. & Eval. _____
Spec. Inv. _____
Training _____
Legal Coun. _____
Telephone Rm. _____
Director Sec'y _____

MAIL ROOM ☐ TELETYPE UNIT ☐

FBI(20-cv-3269)-49
GPO 254-346

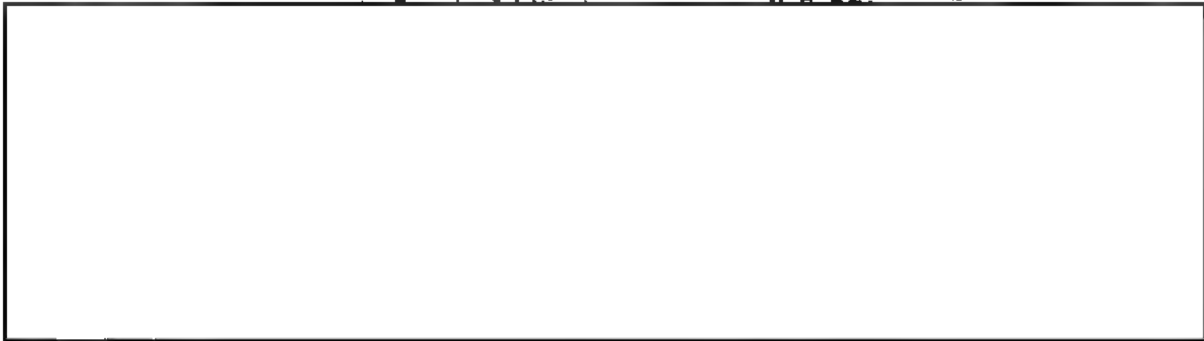
(S)
FBI/DOJ

RECEIVED

1 23 PM '7d

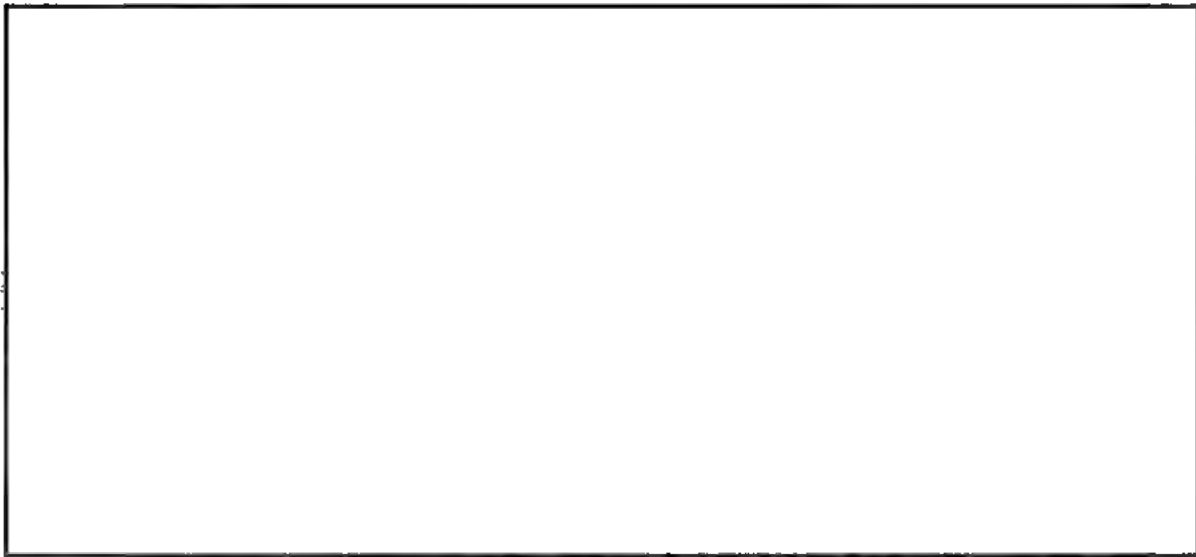
FBI

b6 - 4, 7
b7C - 4, 7
b7D - 1

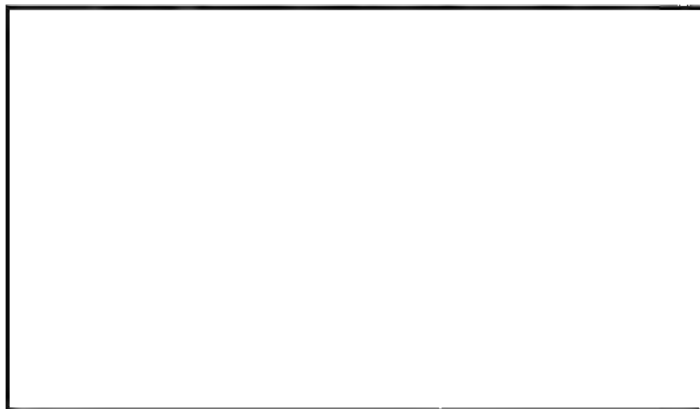


No 7

REC'D GESHARDT



b6 - 2, 5
b7C - 2, 5
b7D - 1



U.S. DEPT. OF JUSTICE

DEC 2 5

CRIMINAL DIVISION
SPECIAL AGENT



b6 - 1
b7C - 1

Assistant Attorney General
Criminal Division

to use [REDACTED] office advised that it was necessary
the [REDACTED] November 27, 1974, and due to this,
General [REDACTED] zation delegated to me by the Attorney
in this instance.

of the [REDACTED] ity is requested for the utilization
ce for a 30-day period.

SPECIAL INVESTIGATIVE DIVISION
11/27/74

Attached Boston teletype requests emergency authorization for the utilization of a body recorder and/or transmitting device and the [redacted] in order to obtain b7E - 1 corroborative evidence concerning violations of the Extortionate Credit Transactions Statute.

[redacted] is [redacted] - 5 presently making juice payment on five loans to five separate b7C - 5 hoodlum groups. [redacted] has fallen behind in all payments b7D - 1 and has been threatened by several individuals. He is in fear of his life, is willing to testify and be equipped with a body recorder.

Boston Agents, with the consent of [redacted] have monitored recent telephone calls in which the subjects have discussed juice payments with him; however, no threats were made at this time.

Strike Force Attorney [redacted] concurs with the b6 - 4 use of a body recorder and/or transmitting device in this b7C - 4 instance in order to obtain substantial evidence necessary for a successful prosecution.

To date Boston has [redacted] regarding this matter pertaining to motel and [redacted] to keep the victim secreted. Boston desires to [redacted]

[redacted] let payments slide at which time it is anticipated threats will undoubtedly be made and evidence obtained. b7E - 1, 2

It appears [redacted] Boston requested would suffice at this time and Special Investigative Division recommends the [redacted] be authorized. It is also recommended the emergency authorization delegated to the Director by the Attorney General be enacted in this instance with regard to the body recorder and/or transmitting device.

A request will be made to the Department for an additional 30 days.

1 - Mr. [redacted]
1 - Mr. [redacted]

RFH:bam

b6 - 1
b7C - 1

FBI(20-cv-3269)-52

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

NOV 26 1974

TELETYPE

Assoc. Dir.	
Dep. A.D. Adm.	
Dep. A.D. Inv.	
Asst. Dir.:	
Admin.	
Comp. Syst.	
Ext. Affairs	
Files & Com.	
Gen. Inv.	
Ident.	
Inspection	
Intell.	
Laboratory	
Plan. & Eval.	
Spec. Inv.	
Training	
Legal Coun.	
Telephone Rm.	
Sec'y	

NR 005 BS PLAIN

4:28 PM URGENT

NOVEMBER 26, 1974 DAD

TO: DIRECTOR

FROM: BOSTON 179-262

JAMES BULGER, AKA "WHITEY"; [REDACTED]

AKA [REDACTED]

[REDACTED] - VICTIM, ECT, OO: BOSTON.

VICTIM INTERVIEWED NOVEMBER 21 - 22, 1974 FURNISHING
DETAILED INFORMATION RE LOANSHARKING ACTIVITIES OF CAPTIONED
SUBJECTS. VICTIM INDEBTED TO SUBJECTS AS FOLLOWS:

b6 - 1, 2, 7/
b7C - 1, 2, 7
b7D - 1

b6 - 2, 5
b7C - 2, 5
b7D - 1

UNSUB. [REDACTED] 179-77-13

VICTIM ALSO SLAPPED AROUND BY TWO UNSUBS WHOM VICTIM
THROUGH "STREET TALK" BELIEVES TO HAVE ALSO BEEN FROM [REDACTED]
WHO INFORMED HIM TO "PAY UP" [REDACTED] DEC 6 1974

Airtel to BS
11/29/74
RFH:baw

Airtel to BS
12/3/74
RFH:baw

let to AAG, CD
11/29/74
RFH:baw

FBI(20-cv-3269)-53

RECEIVED
Nov 27 10 22 AM 1974
LEGAL COUNSEL Nov 27 10 58 AM '74

b6 - 1, 2, 5, 7
b7C - 1, 2, 5, 7
b7D - 1

FBI
U.S. DEPT. OF JUSTICE
Nov 27 12 39 PM '74
RECEIVED-CLEVELAND

CRIMINAL
SECTION
NOV 27 1974

TELETYPE

b6 - 2, 5
b7C - 2, 5
b7D - 1

[REDACTED] (KNOWN LOANSHARKS

FOR [REDACTED] LCN, [REDACTED]

[REDACTED] VICTIM HAS [REDACTED]

[REDACTED] CONVICTED FOR LOANSHARKING IN

b6 - 2, 5
b7C - 2, 5
b7D - 1

[REDACTED] (SUSPECTED LOANSHARKS

FOR [REDACTED] LCN), [REDACTED]

JUICE). VICTIM HAS [REDACTED]

[REDACTED] JAMES "WHITEY" BULGER AND [REDACTED]

b6 - 2, 5
b7C - 2, 5
b7D - 1

AS [REDACTED]

[REDACTED] (SUSPECTED

LOANSHARKS FOR [REDACTED]

b6 - 2, 5
b7C - 2, 5
b7D - 1

VICTIM ESTIMATES BACK JUICE [REDACTED]

VICTIM UNABLE TO PAY ANY JUICE OR PRINCIPLE AT THIS TIME OR
AT ANYTIME IN THE FORSEEABLE FUTURE. VICTIM HAS FALLEN BEHIND
SEVERELY IN JUICE PAYMENTS AND HAS BEEN THREATENED BY ONE
OR MORE OF EACH OF THE SUBJECTS FROM THE GROUPS AS SET OUT ABOVE.
VICTIM IN FEAR FOR LIFE AND HAS AGREED TO TESTIFY AGAINST ALL THE

PAGE THREE

BS 179-262

~~ABOVE~~ SUBJECTS AND CONTINUED CONTACT WITH ABOVE SUBJECTS ON
A CONTROLLED BASIS AND DIRECTION OF BUAGENT, [REDACTED]
[REDACTED]

ON NOVEMBER 22, 1974, VICTIM FURNISHED WRITTEN AUTHORIZATION
FOR BUAGENTS TO MONITOR AND RECORD TELEPHONE CONVERSATIONS.
VICTIM CONTACTED THREE SUBJECTS ON THAT DATE UNDER PRETEXT OF

b6 - 2, 5
b7C - 2, 5
b7D - 1

[REDACTED]
[REDACTED] ACKNOWLEDGED KNOWING VIC [REDACTED] ACKNOWLEDGED
DEBT, ACKNOWLEDGED JUICE IN AREARS AND IMPLICATED OTHER
CAPTIONED SUBJECTS; HOWEVER, NO THREATS COMMUNICATED.

ON NOVEMBER 23, 1974, VICTIM AGAIN FURNISHED
WRITTEN AUTHORIZATION FOR BUAGENTS TO MONITOR AND RECORD TELEPHONE
CONVERSATIONS.

ON THAT DATE, VICTIM CONTACTED TWO SUBJECTS UNDER SAME
PRETEXT. SUBJECT [REDACTED] ACKNOWLEDGED KNOWING VICTIM AND
STATED FULL DETAILS OF LOAN INCLUDING PRINCIPLE AND BACK JUICE.
SUBJECT [REDACTED] ACKNOWLEDGED KNOWING VICTIM AND BY
INFERENCE ACKNOWLEDGED DEBT AND FACT HE [REDACTED] WOULD NOT
DO ANYTHING TO VICTIM IF VICTIM WOULD MEET WITH HIM AT
[REDACTED]

b6 - 2, 5
b7C - 2, 5
b7D - 1

PAGE FOUR

BS 179-262

STRIKE FORCE ATTORNEY [REDACTED] BOSTON, MASS,
CONTACTED RE THIS MATTER AND REQUESTED BOSTON TO SEEK AG
AUTHORITY FOR UTILIZATION OF ON BODY RECORDER AND TRANSMITTING
DEVICE TO BE UTILIZED ON PERSON OF VICTIM IN FUTURE CONTACTS WITH
WITH SUBJECTS APPEARING IN TITLE. VICTIM AGREEABLE TO USE
OF BODY RECORDER AND/OR TRANSMITTING DEVICE IN FUTURE
CONTACTS AND AS SET OUT ABOVE, IS WILLING TO TESTIFY TO SAME.

b6 - 4
b7C - 4

BOSTON INTENDS TO DIRECT VICTIM TO CONTINUE TELEPHONIC
CONTACT WITH SUBJECTS AND LATER ARRANGE PERSONAL MEETINGS
MAKING PARTIAL PAYMENTS OF BACK JUICE SO AS TO OBTAIN ANY
INCRIMINATORY STATEMENTS AND CORROBORATION TO VICTIM'S TESTIMONY
RE THREATS. VICTIM WILL THEN, ON A CONTROLLED BASIS, LET JUICE
PAYMENTS SLIDE AND IT IS THEREFORE ANTICIPATED THREATS WILL BE
REINSTITUTED BY SUBJECTS AND FURTHER INCRIMINATORY EVIDENCE
BE OBTAINED.

BUREAU IS REQUESTED TO OBTAIN AG AUTHORIZATION OF ON BODY
RECORDER AND/OR TRANSMITTING DEVICE TO BE USED ON PERSON
OF [REDACTED] IN FUTURE CONTACTS WITH SUBJECTS.

b6 - 5
b7C - 5
b7D - 1

BUREAU ALSO REQUESTED TO AUTHORIZE EXPENDITURE OF [REDACTED]

b7E - 1

[REDACTED] WHICH CAN BE AUTHORIZED BY SAC FOR [REDACTED]

[REDACTED] IN THIS MATTER.

FBI(20-cv-3269)-57

PAGE FIVE BS 179-262

BUREAU WILL BE KEPT ADVISED OF ANY SIGNIFICANT
DEVELOPMENTS.

END.

PMJ FBI HQ CLR

FBI(20-cv-3269)-58

F B I
U. S. DEPT. OF JUSTICE

NOV 26 5 24 PM '74

RECEIVED-CLEVELAND

NOV 26 4 11 PM '74
RECEIVED
TELETYPE UNIT

airtel

REC-89

2/5/75

To: SAC, Boston (179-262)

1 - Computer Systems
Division

From: Director, FBI

179-1143-8

RE: AL

EX 104

ECT; RICO

VICTIM

b6 - 2, 7
b7C - 2, 7
b7D - 1

Re Boston airtel to the Bureau 1/31/75.

Bureau authority concerning the additional
requested in reairtel is granted.

b7E - 1

NOTE: This matter involves five separate hoodlum groups
collecting juice payments from

A body recorder and consensual
monitoring of victim's telephone calls have been utilized
in this matter. The victim, for a period of time, was

b6 - 5
b7C - 5
b7D - 1
b7E - 2

Corroborative evidence
has been obtained by our Boston office by monitoring the
victim's telephone calls. Boston feels at this time that
there is enough information to present before the Federal
Grand Jury, Boston, to obtain indictments concerning subjects
in this matter.

To date Boston has

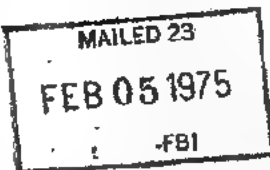
and Boston now

not yet received. Special
Investigative Division concurs with SAC, Boston's request
for

b7E - 1

RFH:bam
(5)

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir. _____
Admin. _____
Comp. Syst. _____
Ext. Affairs _____
Files & Com. _____
Gen. Inv. _____
Ident. _____
Inspection _____
Intell. _____
Laboratory _____
Plan. & Eval. _____
Spec. Inv. _____
Training _____
Legal Coun. _____
Telephone Rm. _____
Director Sec'y _____



FEB 7 1975

MAIL ROOM

TELETYPE UNIT

GPO 551-546
FBI(20-cv-3269)-60

REC-83

Computer Systems
Division

b6 - 2
b7C - 2

[Redacted]
I
not responsive

NOTE: This matter involves the collection of funds for the purpose of monitoring of victim's telephone calls have been utilized in this matter. The victim, for a period of time, was

b6 - 5
b7C - 5
b7D - 1
b7E - 2

Cooperative evidence has been obtained by our Boston office by monitoring the victim's telephone calls. Boston feels at this time that there is enough information to present before the Federal Grand Jury, Boston, to obtain indictments concerning subjects in this matter.

b7E - 1

To date Boston and Boston now requests Investigative Division concurs with SAC, Boston's request

b6 - 2
b7C - 2

RECEIVED-CLEVELAND

FEB 5 8 40 AM '75

FBI
U.S. DEPT. OF JUSTICE

[Redacted]
I
not responsive

MAILED 29
FEB 02 1975
FBI

19 (6922-cv-3294)

FBI

Date: 1/31/75

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO: DIRECTOR, FBI

FROM: ~~X~~ SAC, BOSTON (179-262)(P)

CHANGED

- VICTIM;

ET AL
ECT; RICO

b6 - 2, 7
b7C - 2, 7
b7D - 1

Re Boston airtel to Bureau, 12/19/74; Bureau airtel to Boston, 12/27/74; Boston nitel to Bureau, 1/2/75 and Bureau airtel to Boston, 1/3/75.

b6 - 2
b7C - 2

Title marked changed to reflect correct spelling of [redacted] last name previously carried as [redacted] and to include additional character RICO.

Enclosed for the Bureau are four copies of an LHM setting forth facts as developed by investigation since re Boston airtel, 12/19/74.

No conversations were recorded using an on-the-body recorder during this period. Extensive conversations were recorded on telephone of victim (consensual) which will corroborate victim's potential testimony.

Victim's undercover capacity recently terminated and victim will testify before Federal Grand Jury, Boston, Mass., in the immediate future. Boston continuing investigation; however, New England Organized Crime Strike Force Boston Mass. seeking Departmental approval [redacted] b

b7D - 1

2-Bureau (Encs. 4) - *acc VLF*
2-Boston *2/15/75*
JMM:m
(4) *41-BS*

FILED 1975

b6 - 1
b7C - 1

Approved: _____ Sent _____ M Per _____
Special Agent in Charge U.S. Government Printing Office, 1972 - 455-574

FBI
U. S. DEPT. OF JUSTICE

FEB 4 9 56 AM '75

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SPECIAL INVESTIGATIVE
DIVISION

CRIM INTELL SEC
SPECIAL INVEST DIV
FEB 4 10 27 AM 1975
FBI
U. S. DEPT. OF JUSTICE

BS 179-262

[redacted] In view of these facts, Boston not request b7D - 1
ing extension of authorization for use of on-the-body
and transmitting device. b7E - 1

Bureau is [redacted] requested to authorize additional [redacted]
[redacted] not
yet received. Boston does not anticipate further requests for
additional expenditure authorizations.

Report to be submitted in immediate future in connection
with Federal Grand Jury proceedings.



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No.

Boston, Massachusetts

January 31, 1975

[REDACTED] JAMES J. BULGER;

b6 - 2, 7
b7C - 2, 7
b7D - 1

VICTIM:

EXTORTIONATE CREDIT TRANSACTION;
RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

[REDACTED] victim in this matter, continued b6 - 5
[REDACTED] until approximately January b7C - 5
27, 1974. Extensive telephone conversations were recorded b7D - 1
between the victim and subjects of this investigation. These
conversations are considered highly incriminating and will
corroborate the victim's potential testimony.

No personal meetings between the victim and subjects b3 - 1
were conducted in the interest of his personal safety. In b6 - 5
view of that fact, utilization of an on-the-body recorder and b7C - 5
transmitting device was not necessitated. b7D - 1

[REDACTED]

[REDACTED]

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of the FBI. It is the property of the FBI and is loaned to
your agency; it and its contents are not to be distributed
outside your agency.

179-1143-8
ENCLOSURE

FBI(20-cv-3269)-65

FEDERAL BUREAU OF INVESTIGATION
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Civil Action# 20-cv-3269

Total Deleted Page(s) = 128

Page 15 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 16 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 18 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1;
Page 19 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1;
Page 21 ~ b6 - - 2, 6, 5; b7C - - 2, 6, 5; b7D - - 1;
Page 22 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 24 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 25 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 26 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 28 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 29 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 30 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 31 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 33 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 34 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 35 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 37 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 61 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 64 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 65 ~ b6 - - 2, 5, 7; b7C - - 2, 5, 6; b7D - - 1;
Page 66 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 67 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 70 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 71 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 74 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 75 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 76 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 79 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 80 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 81 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 82 ~ b6 - - 2, 4; b7C - - 2, 4; b7D - - 1;
Page 83 ~ b6 - - 2, 4; b7C - - 2, 4; b7D - - 1;
Page 84 ~ b6 - - 2, 4; b7C - - 2, 4; b7D - - 1;
Page 87 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 88 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 89 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 90 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 91 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 92 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 93 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 94 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 95 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 98 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 101 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 102 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 103 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 104 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 105 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;

Page 106 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 109 ~ b6 - 2, 5; b7C - 2, 5; b7D 1;
 Page 110 ~ b6 - 2, 5; b7C - 2, 5; b7D 1;
 Page 111 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 112 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 115 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 118 ~ b6 - - 2, 5; b7C 2, 5; b7D 1;
 Page 119 ~ b6 - - 2, 5, 6; b7C - 2, 5, 6; b7D 1;
 Page 120 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 121 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 122 ~ b6 - - 2, 5; b7C - 2, 5; b7D 1;
 Page 123 ~ b6 - - 2, 5; b7C - 2, 5; b7D 1;
 Page 124 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 125 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 126 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 127 ~ b6 - 2, 5; b7C 2, 5; b7D 1;
 Page 128 ~ b6 - 2, 5; b7C 2, 5; b7D 1;
 Page 129 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 130 ~ b6 - 2, 5; b7C 2, 5; b7D 1;
 Page 131 ~ b6 - 2, 5; b7C 2, 5; b7D 1;
 Page 132 ~ b6 - 2, 5, 6; b7C - 2, 5, 6; b7D 1;
 Page 133 ~ b6 - 2, 5, 6; b7C - 2, 5, 6; b7D 1;
 Page 134 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 7;
 Page 135 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 7;
 Page 136 ~ b6 - 2, 5; b7C - 2, 5; b7D 7;
 Page 137 ~ b6 - 2, 5; b7C - 2, 5; b7D 7;
 Page 138 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 7;
 Page 139 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 7;
 Page 140 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 7;
 Page 141 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 7;
 Page 144 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 145 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 146 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 147 ~ b6 - - 2, 5; b7C - 2, 5; b7D - - 1;
 Page 148 ~ b6 - - 2, 5; b7C - 2, 5; b7D - - 1;
 Page 149 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 150 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
 Page 151 ~ b6 - - 2, 5, 6; b7C - 2, 5, 6; b7D 1;
 Page 152 ~ b6 - - 2, 5, 6; b7C 2, 5, 6; b7D 1;
 Page 153 ~ b6 - - 2, 5, 6; b7C 2, 5, 6; b7D 1;
 Page 154 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
 Page 155 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
 Page 156 ~ b6 - - 2, 5; b7C - 2, 5; b7D 1;
 Page 157 ~ b6 - - 2, 5; b7C - - 2, 5; b7D 1;
 Page 158 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 159 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 160 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
 Page 161 ~ b6 - 2, 5; b7C 2, 5; b7D 1;
 Page 162 ~ b6 - 2, 5; b7C 2, 5; b7D - 1;
 Page 163 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
 Page 164 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
 Page 165 ~ b6 - 2, 5; b7C 2, 5; b7D - 1;
 Page 166 ~ b6 - 2, 5; b7C 2, 5; b7D 1;
 Page 167 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;

Page 168 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 169 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 170 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 171 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 172 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 173 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 174 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 175 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 176 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 177 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 178 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 179 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 180 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 181 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 182 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 183 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 184 ~ b6 - - 2, 5; b7C - - 2, 5; b7D - - 1;
Page 185 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 186 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 187 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 188 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 189 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 190 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 191 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 192 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 193 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;

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X For this Page X
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U. S. DEPT. OF JUSTICE

MAY 12 1975

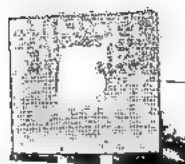
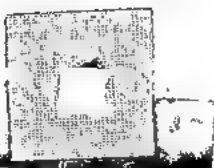
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DIVISION

CRIM INTELL SEC
SPECIAL INVEST DIV

APR 18 4 59 PM 1975

F. B. I.
U. S. DEPT. OF JUSTICE



FBI(20-cv-3269)-67

Title marked CHANGED to reflect correct spelling
of last name of subjects [redacted] previously
carried as [redacted] previously carried as [redacted]

b6 - 2
b7C - 2

REFERENCE: Boston teletype to the Bureau dated 11/26/74.
Bureau airtel to Boston dated 11/29/74.
Bureau airtel to Boston dated 12/3/74.
Boston nitel to the Bureau dated 12/9/74.
Bureau airtel to Boston dated 12/10/74.
Boston nitel to the Bureau dated 12/13/74.
Bureau airtel to Boston dated 12/16/74.
Boston airtel to the Bureau dated 12/19/74.
Bureau airtel to Boston dated 12/27/74.
Boston nitel to the Bureau dated 1/2/75.
Bureau airtel to Boston dated 1/3/75.
Boston airtel to the Bureau dated 1/31/75.
Bureau airtel to Boston dated 2/5/75.

(P)

ADMINISTRATIVE

The local agency referred to on Page 533
in the details of this report is Dun and Bradstreet
and the information was furnished in a confidential
report prepared by Dun and Bradstreet.

b6 - 5
b7C - 5
b7D - 1

INFORMANT INFORMATION

On 1/22/75, [redacted] advised that [redacted]

b6 - 2, 5
b7C - 2, 5
b7D - 2, 3

On 1/28/75, [redacted] advised that [redacted]

According to informant, [redacted]

b6 - 2, 5, 6
b7C - 2, 5, 6
b7D - 2, 3

-B-
COVER PAGE

[REDACTED]

[REDACTED]. Informant said [REDACTED]

b6 - 2, 5

[REDACTED]

b7C - 2, 5

On 1/30/75, [REDACTED] advised that [REDACTED]

b7D - 2, 3

[REDACTED]

On 2/5/75, [REDACTED] advised that [REDACTED]

[REDACTED]

On 3/12/75, [REDACTED] advised that [REDACTED]

b6 - 2, 5, 6

b7C - 2, 5, 6

b7D - 2, 3

[REDACTED]

LEADS

Two information copies are being designated for Newark in that leads for that division are forthcoming which are based on information set out in the details of this report. Leads are not being set out at this time in view of the fact that enclosures, which will be necessary to conduct investigation (photographs), were not ready at time of preparation of this report. Enclosures with specific leads will be set out in a separate communication.

BOSTON

AT BOSTON, MASS.

Conduct logical ECT and RICO investigation to develop additional victims, witnesses and corroborative evidence.

Maintain liaison with Departmental Attorney
[REDACTED] New England Organized Crime Strike
Force, Boston, Mass.

b6 - 4

b7C - 4

BS 179-262

Maintain liaison with [REDACTED]

[REDACTED] United States Marshal Service
[REDACTED] Providence, R.I.

b6 - 4
b7C - 4

AT REVERE, MASS.

Maintain liaison with [REDACTED]
[REDACTED]

b6 - 6
b7C - 6

-D*-
COVER PAGE

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

1 Strike Force Attorney
Boston, Massachusetts

Report of:

[redacted] b6 - 1
April 14, 1975 b7C - 1

Office: Boston, Massachusetts

Date:

Field Office File #:

179-262

Bureau File #:

Title:

[redacted]
JAMES J. BULGER;b6 - 2, 7
b7C - 2, 7
b7D - 1

[redacted] - VICTIM

Character:

EXTORTIONATE CREDIT TRANSACTION

Synopsis:

Victim [redacted]


b6 - 2, 5
b7C - 2, 5
b7D - 1


[redacted], voluntarily contacted New England Organized Crime Strike Force on 11/21/74 advising that he was indebted to several Boston area loansharks. Victim interviewed on 11/21/74 and furnished details of loans from five separate loanshark operations in the Boston area. Victim indebted

[redacted]
JAMES J. BULGER group in connection with

[redacted]
recorder, transmitting and on the body recording devices to corroborate testimony.

(synopsis continued)

Numerous conversations with subjects recorded during period 11/22/74 through 1/22/75. On 12/2/74, victim made "juice" payments (surveillance afforded) 



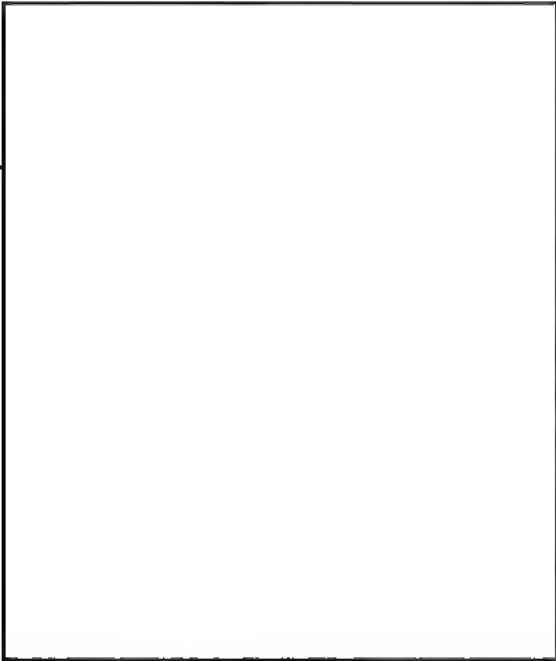
b3 - 1
b6 - 5
b7C - 5
b7D - 1

(P)

Details:

TABLE OF CONTENTS

	<u>Pages</u>	
I. PREDICATION	5 - 6	
II. INTERVIEWS OF [REDACTED]	7 - 32	b6 - 5 b7C - 5 b7D - 1
a. Initial Interview	8 - 10	
b. General background of Business and Indebtedness	11 - 13	
c. Concerning [REDACTED] et al	14 - 16	b6 - 2 b7C - 2 b7D - 1
d. Concerning [REDACTED] et al	17 - 20	
e. Concerning James J. Bulger, et al ..	21 - 25	
f. Concerning [REDACTED] et al	26 - 30	b6 - 2 b7C - 2 b7D - 1
g. Concerning [REDACTED] et al	31 - 32	
III. PAYMENTS MADE AND RELATED INVESTIGATION [REDACTED]	33 - 39	b7D - 1
IV. OBSERVATIONS AT THE BEACHMONT SOCIAL CLUB AND RELATED INVESTIGATION	40 - 44	
V. CONSENT OF [REDACTED] TO UTILIZE TELEPHONE RECORDER, TRANS- MITTING, AND/OR ON-THE-BODY RECORDING DEVICES	45 - 52	b6 - 5 b7C - 5 b7D - 1
VI. RECORDED CONVERSATIONS	53 - 522	
[REDACTED]	54 - 56	b6 - 2 b7C - 2 b7D - 1
[REDACTED]	57 - 71	
[REDACTED]	72 - 90	

	Pages
	91 - 93
.....	94 - 107
.....	108 - 110
.....	111 - 237
.....	238
.....	239 - 284
.....	285 - 376
.....	377 - 484
.....	485 - 487
.....	488 - 499
Miscellaneous conversations	500 - 522
VII. TELEPHONE SUBSCRIBER INFORMATION	523 - 531
VIII. CORPORATION, LICENSING, AND MERCANTILE ASSOCIATION RECORDS CONCERNING THE INTERMISSION LOUNGE, CHANDLER AND VICO SALES	532 - 535
IX. ARREST RECORDS OF SUBJECTS AND VICTIM	536 - 557
X. MISCELLANEOUS INVESTIGATION	558 - 562

b6 - 2
b7C - 2
b7D - 1

I. PREDICATION

On November 21, 1974, Departmental Attorney [redacted] New England Organized Crime Strike Force, Boston, Massachusetts, advised that [redacted] had telephonically contacted his office stating he was indebted to several major Boston area loansharks. [redacted] expressed a desire to be interviewed by Agents of the Federal Bureau of Investigation. [redacted] further advised he had been threatened, "slapped around", and robbed at gunpoint in connection with delinquent juice payments in connection with the loans.

b6 - 4, 5
b7C - 4, 5
b7D - 1

II. INTERVIEWS OF



b6 - 5
b7C - 5
b7D - 1

FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 11/27/74

[redacted] advised he wished to furnish information concerning loans he obtained from various loan sharks in the Greater Boston, Massachusetts area [redacted]
[redacted]
[redacted] from several individuals.

b6 - 5
b7C - 5
b7D - 1

advised he is

b6 - 5, 6
b7C - 5, 6
b7D - 1

as follows:

b6 - 2, 5
b7C - 2, 5
b7D - 1

Interviewed on 11/21/74

File ~~BS~~ 179-262

b6 - 1
b7C - 1
b7D - 1

\$49

and

JMM: nm

Date dictated 11/25/74

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FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 12/9/74

[redacted]
[redacted] was interviewed and furnished the following information:

b6 - 5
b7C - 5
b7D - 1

[redacted] advised he wished to furnish information pertaining to [redacted]
[redacted]

b6 - 5
b7C - 5
b7D - 1

[redacted]

b6 - 5, 6
b7C - 5, 6
b7D - 1

[redacted] advised the [redacted]
[redacted]

b6 - 5, 6
b7C - 5, 6
b7D - 1

[redacted] advised his first experience [redacted]
[redacted]

b6 - 5, 6
b7C - 5, 6
b7D - 1

Interviewed on 12/5/74 at Lexington, Massachusetts File # BS 179-262

by SAS [redacted] and [redacted] JMM:mmm Date dictated 12/6/74

b6 - 1
b7C - 1

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FEDERAL BUREAU OF INVESTIGATION

1

Date of transcription 12/19/74

[redacted] was interviewed and furnished the following information:

b6 - 5
b7C - 5
b7D - 1

During the first two weeks of June, 1974.

b6 - 2, 5
b7C - 2, 5
b7D - 1

b6 - 2, 5
b7C - 2, 5
b7D - 1

Interviewed on 12/5/74 at Lexington, Massachusetts File # BS 179-262

by SA's [redacted] JMM/fmm Date dictated 12/12/74

b6 - 1
b7C - 1

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FBI(20-cv-3269)-84

FEDERAL BUREAU OF INVESTIGATION

1

Date of transcription 12/19/74

[redacted]
[redacted] was interviewed and furnished the following information: b6 - 2, 5, 6
b7C - 2, 5, 6
b7D - 1

Approximately two weeks before [redacted]

[redacted]

Interviewed on 12/5/74 at Lexington, Massachusetts File # BS 179-262

SA's [redacted] by JMM/mm Date dictated 12/12/74

b6 - 1
b7C - 1

FEDERAL BUREAU OF INVESTIGATION

1

Date of transcription 12/27/74b6 - 2, 5, 6
b7C - 2, 5, 6
b7D - 1

[redacted]
[redacted] was interviewed and furnished the following information:

[Large redacted area]

Interviewed on 12/13/74 at Boston, Massachusetts File # BS 179-262by SA's [redacted] JMM/mm Date dictated 12/20/74 b6 - 1
b7C - 1

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FEDERAL BUREAU OF INVESTIGATION

1Date of transcription 12/26/74

[redacted] b6 - 2, 5
[redacted] was interviewed and furnished the following b7C - 2, 5
information: b7D - 1

During the first week of September 1974 [redacted]

[redacted]

On Friday, [redacted]

[redacted]

b6 - 2, 5
b7C - 2, 5
b7D - 1

Interviewed on 12/12/74 at Boston, Massachusetts File # BS 179-262

SA's [redacted]

b6 - 1
b7C - 1

by [redacted] JMM/mm Date dictated 12/19/74

FEDERAL BUREAU OF INVESTIGATION

1

Date of transcription 12/24/74b6 - 5
b7C - 5
b7D - 1

[redacted] was interviewed and furnished the following information:

During late September and the month of October,

b6 - 5, 6
b7C - 5, 6
b7D - 1b6 - 2, 5
b7C - 2, 5
b7D - 1

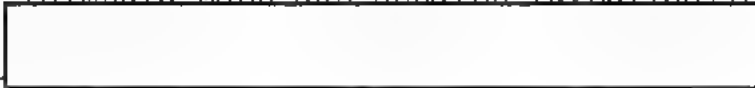
On October 16, 1974, while at the

Interviewed on 12/11/74 at Boston, Massachusetts File # BS 179-262by SA's [redacted] JMM/mm Date dictated 12/18/74b6 - 1
b7C - 1

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BS 179-262

III. PAYMENTS MADE AND RELATED INVESTIGATION



b7D - 1

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 12/4/74

1.
[redacted]

At 10 am on December 2, 1974, [redacted]

b6 - 2, 5
b7C - 2, 5
b7D - 1
b7E - 1

At 10:10 am, December 2, 1974, [redacted]
was observed [redacted]

b6 - 5
b7C - 5
b7D - 1

[redacted]
was observed to enter the premises through the side door
located on [redacted]

At 10:13 am, [redacted], was observed leaving
[redacted]

b6 - 5
b7C - 5
b7D - 1

Interviewed on 12/2/74 at Boston, Massachusetts File # BS 179-262

by SAS [redacted]

JMM:mm

Date dictated 12/3/74

b6 - 1
b7C - 1

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 12/4/741.

[redacted]
[redacted] was interviewed and furnished the
following information:

b6 - 5
b7C - 5
b7D - 1

[Large redacted area]

b6 - 1, 2, 5, 6
b7C - 1, 2, 5, 6
b7D - 1
b7E - 1

interviewed on 12/2/74 at Boston, Massachusetts File # BS 179-262

by SAS [redacted] JMM:mm Date dictated 12/3/74

b6 - 1
b7C - 1

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 12/4/741.

At approximately 10 am, December 2, 1974, [REDACTED]

b6 - 2, 5
b7C - 2, 5
b7D - 1
b7E - 1At 10:37 am, on December 2, 1974, [REDACTED]
[REDACTED] was observed to enter the premises known as the
[REDACTED]b6 - 7
b7C - 7
b7D - 1At 10:39 am on that same date, [REDACTED] was ob-
served leaving [REDACTED]Interviewed on 12/2/74 at Boston, Massachusetts File # BS 179-262by SAS [REDACTED] JMM:mm Date dictated 12/3/74

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FBI(201cv3269)-105

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 12/4/741.

[redacted]
[redacted] was interviewed and furnished the following information:

b6 - 5
b7C - 5
b7D - 1

[redacted]

b6 - 2, 5, 6
b7C - 2, 5, 6
b7D - 1
b7E - 1

Interviewed on 12/2/74 at Boston, Massachusetts File # BS 179-262

by SAS [redacted] JMM:mm Date dictated 12/3/74

b6 - 1
b7C - 1

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FBI(20-cv-3269)-106

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 12/3/741.
SECTION

Following [REDACTED]

b6 - 1, 5
b7C - 1, 5
b7D - 1
b7E - 1[REDACTED] was searched by Special Agent
[REDACTED]Interviewed on 12/2/74 at Boston, Massachusetts File # BS 179-262by SA [REDACTED] and JMM:mm Date dictated 12/2/74b6 - 1
b7C - 1

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Intelligence information furnished by reliable informants of the Boston Office of the FBI reflects that [REDACTED] both in [REDACTED] operate as fronts for loan-sharking and other criminal activities in addition to [REDACTED] respectively, conducted at these premises.

b7D - 1

IV. OBSERVATIONS AT THE BEACHMONT
SOCIAL CLUB AND RELATED INVESTIGATION

1.
BS 179-262
JMM:mm

On December 2, 1974, automobiles with the following registrations were observed parked in the immediate vicinity of the Beachmont Social Club, Winthrop Street, Revere, Massachusetts at approximately 8:05 pm:

- Late model Oldsmobile, brown in color
- 1971 or 1972 Oldsmobile, brown in color
- 1970 Oldsmobile convertible, green in color

b6 - 6
b7c - 6

FEDERAL BUREAU OF INVESTIGATION

1.Date of transcription 12/9/74

Records of the Massachusetts Registry of Motor Vehicles, 100 Nashua Street, Boston, Massachusetts reflect that Massachusetts registration [redacted] is registered to

b6 - 2
b7C - 2

[redacted] and is on a 1970 Oldsmobile 98 convertible, two door, green in color.

Interviewed on 12/4/74 at Boston, Massachusetts File # BS 179-262

by SA [redacted] nm Date dictated 12/6/74

b6 - 1
b7C - 1

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 12/9/741.
encl.

Records of the Massachusetts Registry of Motor Vehicles, 100 Nashua Street, Boston, Massachusetts, reflect that Massachusetts registration [redacted] is registered to [redacted] and is on a 1973 Oldsmobile Delta 88, Coupe, brown in color.

b6 - 2
b7C - 2Interviewed on 12/4/74 at Boston, Massachusetts File # BS 179-262by SA [redacted] /mm Date dictated 12/6/74b6 - 1
b7C - 1

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FEDERAL BUREAU OF INVESTIGATION

1.
Special AgentDate of transcript on 12/9/74

Records of the Massachusetts Registry of Motor Vehicles, 100 Nashua Street, Boston, Massachusetts, reflect that Massachusetts registration [redacted] is registered to [redacted], [redacted] and is on a 1972 Oldsmobile 98, sedan, brown in color.

b6 - 6
b7C - 6

Interviewed on 12/4/74 at Boston, Massachusetts File # BS 179 262

by SA [redacted] Date dictated 12/6/74

b6 - 1
b7C - 1

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44

FBI(20-cv-3269)-113

V. CONSENT OF TO
UTILIZE TELEPHONE RECORDER, TRANS-
MITTING, AND/OR ON-THE-BODY
RECORDING DEVICES

b6 - 5
b7C - 5
b7D - 1.

FEDERAL BUREAU OF INVESTIGATION

1.Date of transcription 11/22/74

[redacted] on November 22, 1974 furnished written consent authorizing Special Agents of the Federal Bureau of Investigation to record and monitor his telephone conversations on that date.

b6 - 5
b7c - 5
b7D - 1

Interviewed on 11/22/74 at Boston, Massachusetts File # BS 170-262

by [redacted] and JMM:mmm Date dictated 11/22/74

b6 - 1
b7C - 1

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FEDERAL BUREAU OF INVESTIGATION

1.Date of transcription 11/23/74

[redacted] on November 23, 1974 furnished written consent authorizing Special Agents of the Federal Bureau of Investigation to record and monitor his telephone conversations on that date.

b6 - 5
b7C - 5
b7D - 1

Interviewed on 11/23/74 at Boston, Massachusetts File # BS 179-262

by SAS [redacted] and JMM:mmm Date dictated 11/23/74

b6 - 1
b7C - 1

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FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 11/25/74

[redacted] on November 25, 1974 furnished b6 - 5
written consent authorizing Special Agents of the Federal b7C - 5
Bureau of Investigation to record and monitor his tele- b7D - 1
phone conversations on that date.

Interviewed on 11/25/74 at Boston, Massachusetts File # BS 179-262

by SA [redacted] mm Date dictated 11/25/74

b6 - 1
b7C - 1

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 12/2/741.

[redacted] furnished written authorization on December 2, 1974 to monitor and record his conversations utilizing transmitting and on the body recording devices. He furnished this authorization for a period of 30 days effective December 2, 1974.

b6 - 5
b7C - 5
b7D - 1

Interviewed on 12/2/74 at Boston, Massachusetts File # BS 179-262

by SAS [redacted] JMM:iam Date dictated 12/2/74 b6 - 1
b7C - 1

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 12/10/74

1.

[redacted] on December 10, 1974 furnished written consent authorizing Special Agents of the Federal Bureau of Investigation to monitor and record his telephone conversations on that date.

b6 - 5
b7C - 5
b7D - 1

Interviewed on 12/10/74 at Boston, Massachusetts File # BS 179-262

by SA [redacted] /mm Date dictated 12/10/74

b6 - 1
b7C 1

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 12/16/741.

[redacted] on December 16, 1974 furnished written consent authorizing Special Agents of the Federal Bureau of Investigation to monitor and record his telephone conversations for a period of 30 days from that date.

b6 - 5
b7c - 5
b7d - 1

Interviewed on 12/16/74 at Boston, Massachusetts File # BS 179-262by SA [redacted] Date dictated 12/16/74 b6 - 1
b7c - 1

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 1/15/751.b6 - 5
b7C - 5
b7D - 1

[redacted] on January 15, 1975 furnished written consent authorizing Special Agents of the Federal Bureau of Investigation to monitor and record his telephone conversations for a period of 30 days from that date.

Interviewed on 1/15/75 at Boston, Massachusetts File # BS 179-262

by SA [redacted] /mm Date dictated 1/15/75 b6 - 1
b7C - 1

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VI. RECORDED CONVERSATIONS

BS 179-262

The attached is a transcript of a
conversation between [REDACTED]
which took place on December 19, 1974. The call was
recorded with the consent of [REDACTED]

b6 - 2, 5
b7C - 2, 5
b7D - 1

BS 179-262

9/74

Recorder

Monitoring Agent:
po's

b6 - 1, 2, 5, 6
b7C - 1, 2, 5, 6
b7D - 1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

BS 179-262

The attached is a transcript of a telephone conversation between [REDACTED] which took place on November 22, 1974. The call was recorded with the consent of [REDACTED]

b6 - 2, 5
b7C - 2, 5
b7D - 1

BS 179-262

11/22 '74

8:35

OG call from [REDACTED]

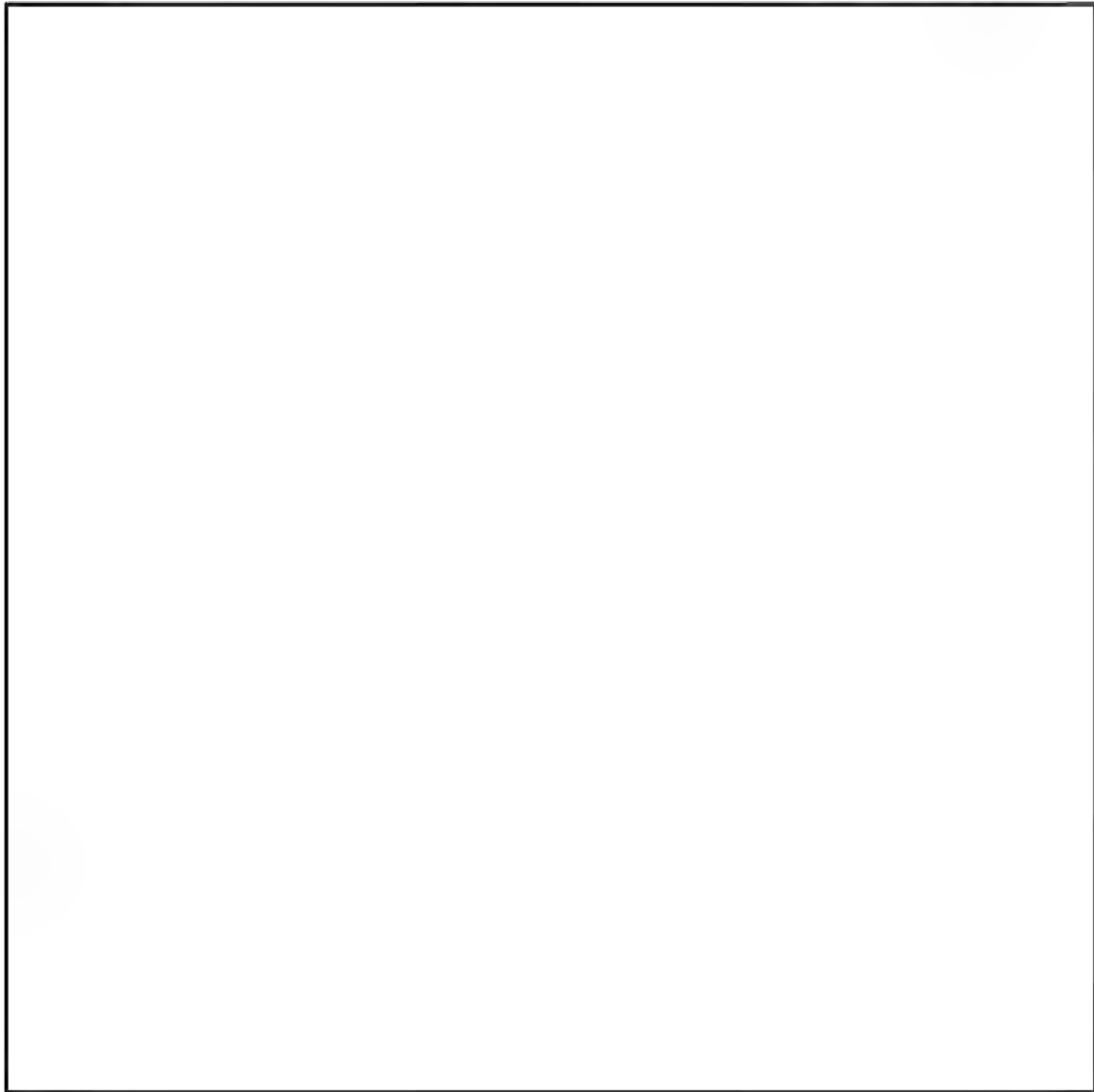
Monitoring Agent: [REDACTED]

po's

b6 - 1, 2, 5

b7C - 1, 2, 5

b7D - 1



BS 179-262

The attached is a transcript of a telephone conversation between [REDACTED] which took place on November 25, 1974. The call was recorded with the consent of [REDACTED]

b6 - 2, 5
b7C - 2, 5
b7D - 1

BS 179-262

11/25/74

8:37

OG call from [REDACTED]

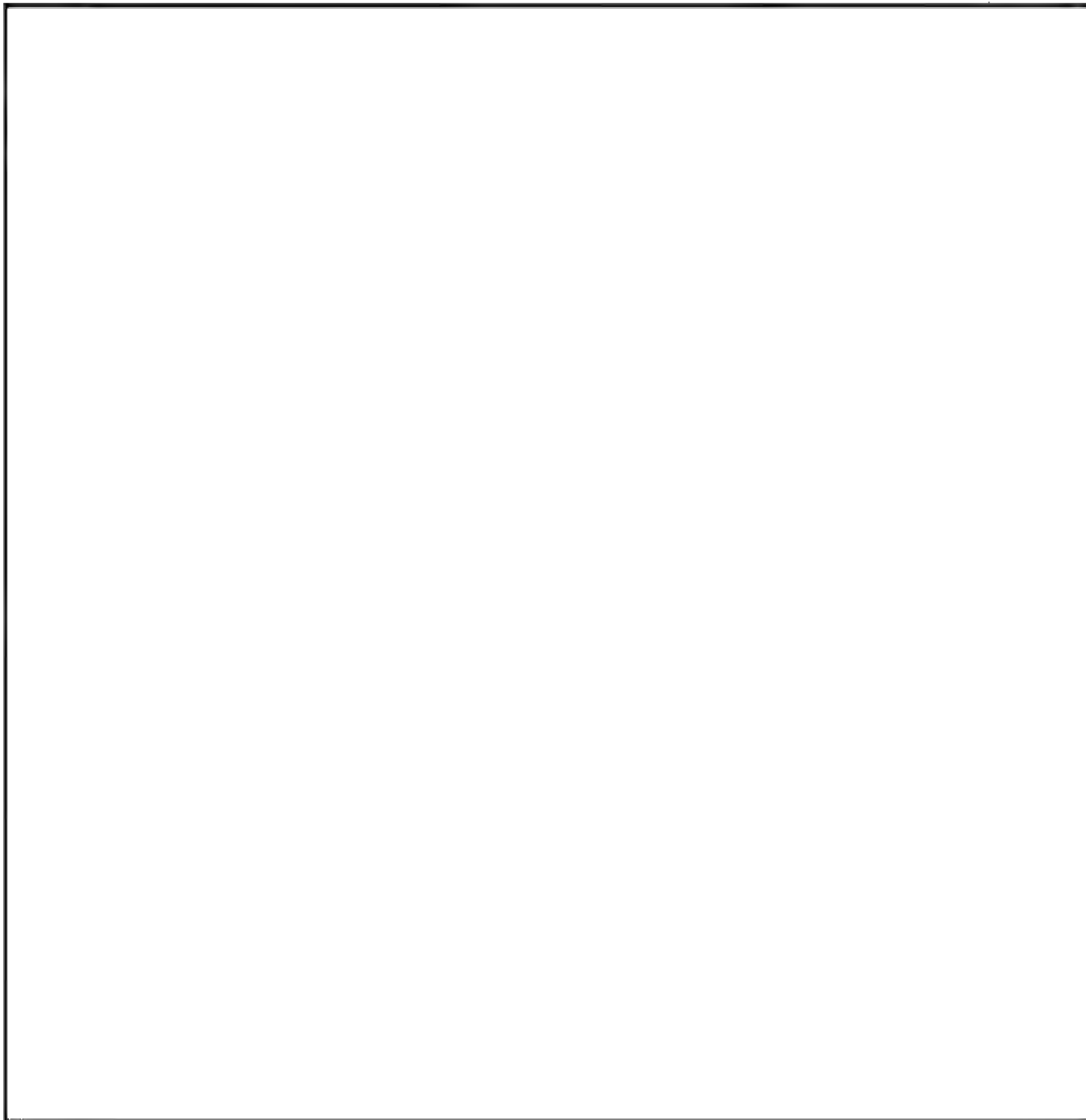
Monitoring Agent: [REDACTED]

po's

b6 - 1, 2, 5

b7C - 1, 2, 5

b7D - 1



The attached is a transcript of a telephone conversation between [REDACTED] [REDACTED] which took place on January 12, 1975. The call was recorded with the consent of [REDACTED]

BS 179-262

1/12/75

8:10 p.m.

IC call

Monitoring Agent:

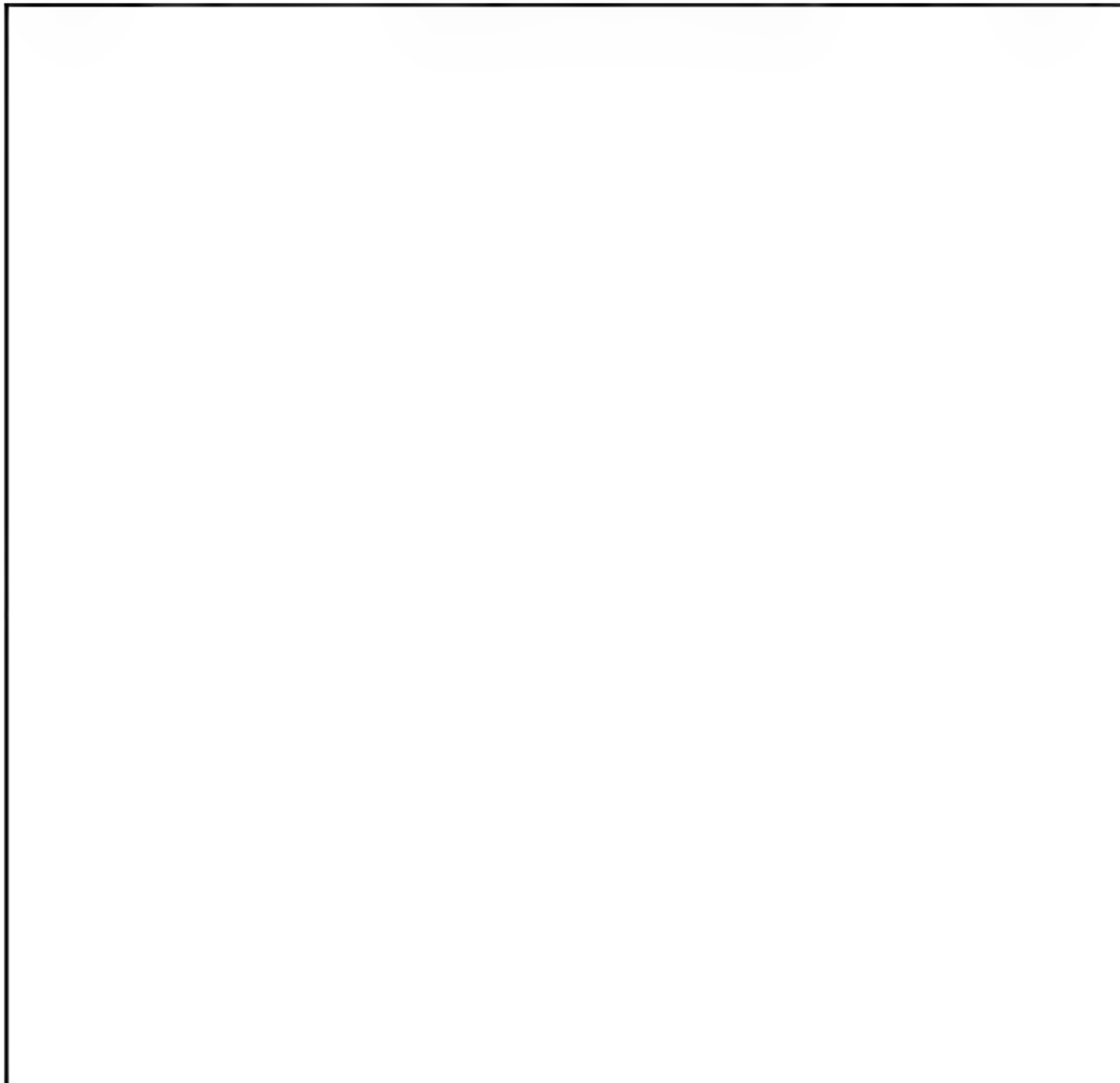
po's



b6 1, 2, 5

b7C 1, 2, 5

b7D - 1



BS 179-262

The attached is a transcript of a telephone conversation between [REDACTED]
[REDACTED] which took place on November 23, 1974. The call was recorded with the consent of [REDACTED]

b6 - 2, 5
b7C - 2, 5
b7D - 1

BS 179-262

11/23/74

4:11

OG call

Monitoring Agent:

po's

OG call from

b6 - 1, 2, 5

b7C - 1, 2, 5

b7D - 1

BS 179-262

b6 - 2, 5
b7C - 2, 5
b7D - 1

The attached is a transcript of a telephone conversation between [REDACTED]

[REDACTED] which took place on January 2, 1975. The call was recorded with the consent of [REDACTED]

BS 179-262

1/2/75

11:44 a.m.

IC call

Monitoring Agent:

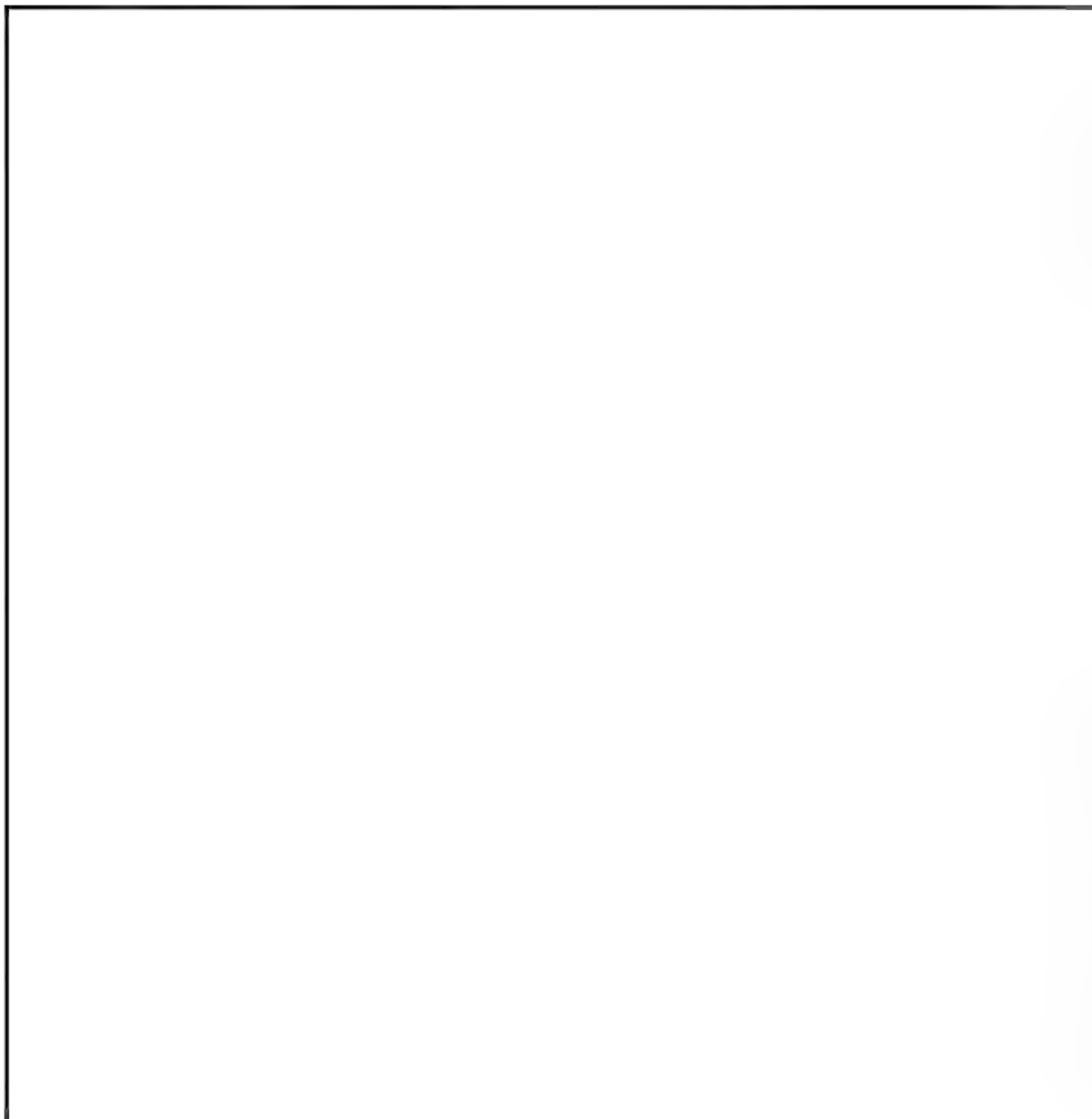


po's

b6 - 2, 5

b7C - 2, 5

b7D - 1



BS 175-268

The attached is a transcript of a telephone conversation between [redacted] which took place on November 23, 1974. The call was recorded with the consent of [redacted]

b6 - 2, 5
b7C - 2, 5
b7D - 1

BS 179-262

11/23/74

4:08

Monitoring Agent:

[REDACTED]

po's

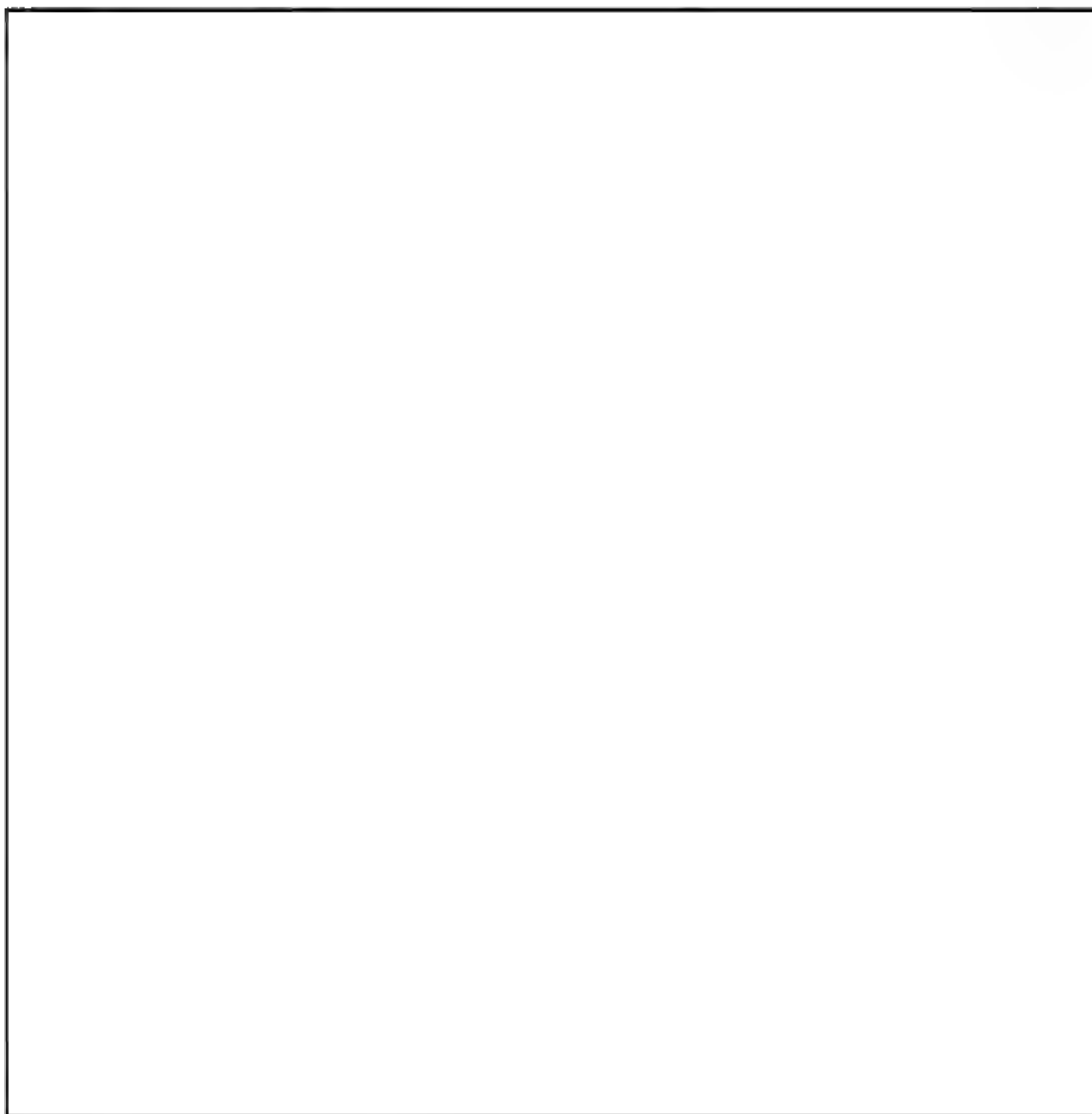
OG Call from

[REDACTED]

b6 - 2, 5

b7C - 2, 5

b7D - 1



BS 179-262

The attached is a transcript of a telephone
conversation between [REDACTED]

[REDACTED] which took place on January 13, 1975. The
call was recorded with the consent of [REDACTED]

b6 - 2, 5
b7C - 2, 5
b7D - 1

BS 179-262

1/13/75

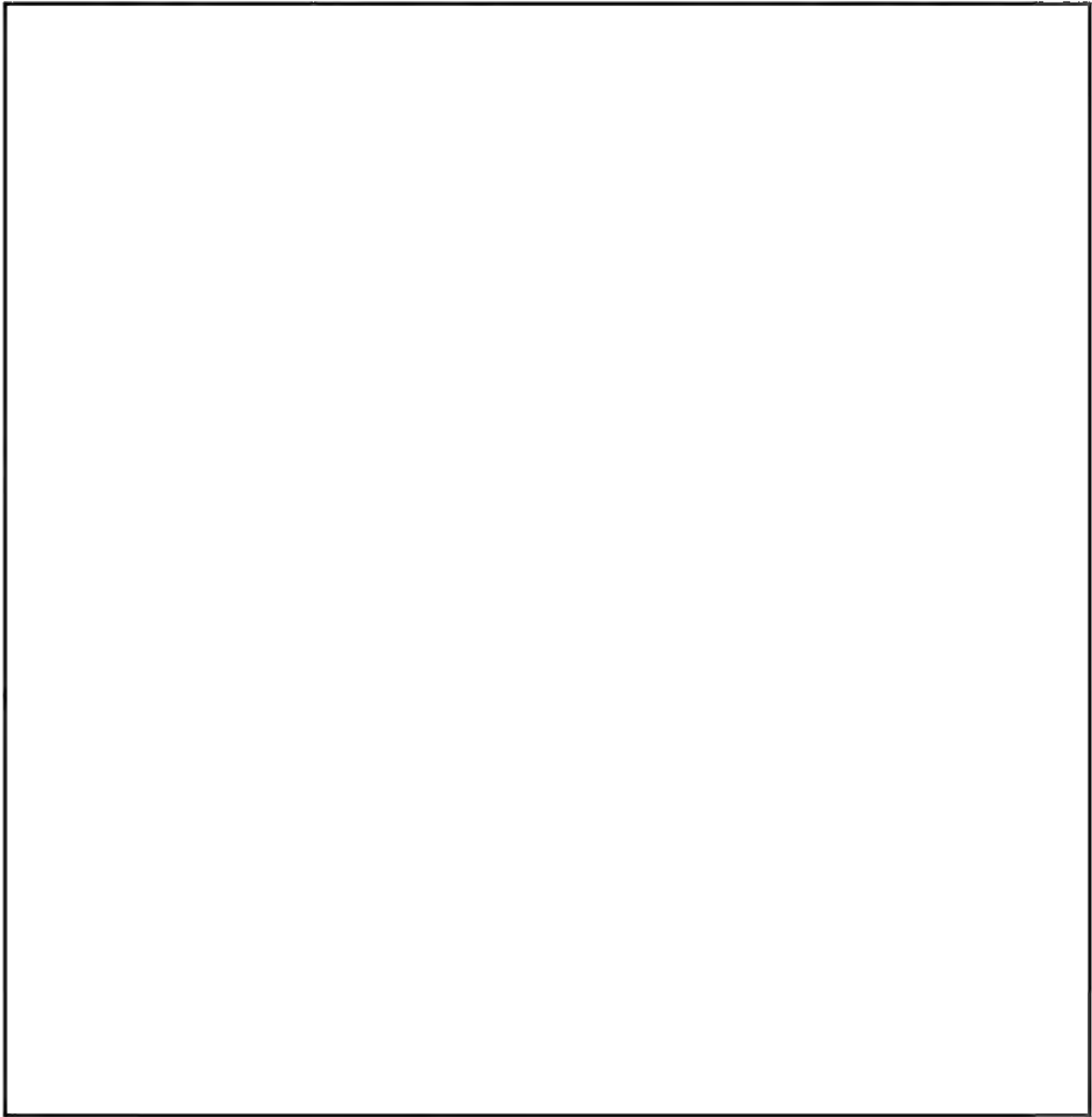
12:22 p.m.

OG from [REDACTED]

Monitoring Agent: [REDACTED]

po's

b6 - 1, 2, 5
b7C - 1, 2, 5
b7D - 1



BS 179-262

The attached is a transcript of a telephone
conversation between [redacted]
[redacted] which took place on January 14, 1975. The
call was recorded with the consent of [redacted]

b6 - 2, 5
b7C - 2, 5
b7D 1

BS 179-262

Date: 1/14/75

Time: 5:25

Incoming Call to [REDACTED]

Monitoring Agent: [REDACTED]

lab

b6 - 1, 2, 5

b7C - 1, 2, 5

b7D - 1

BS 179-262

b6 - 2, 5
b7C - 2, 5
b7D - 1

The attached is a transcript of a telephone conversation between [REDACTED]
[REDACTED] which took place on November 23, 1974. The call was recorded with the consent of [REDACTED]

BS 179-262

11/23/74

8:20

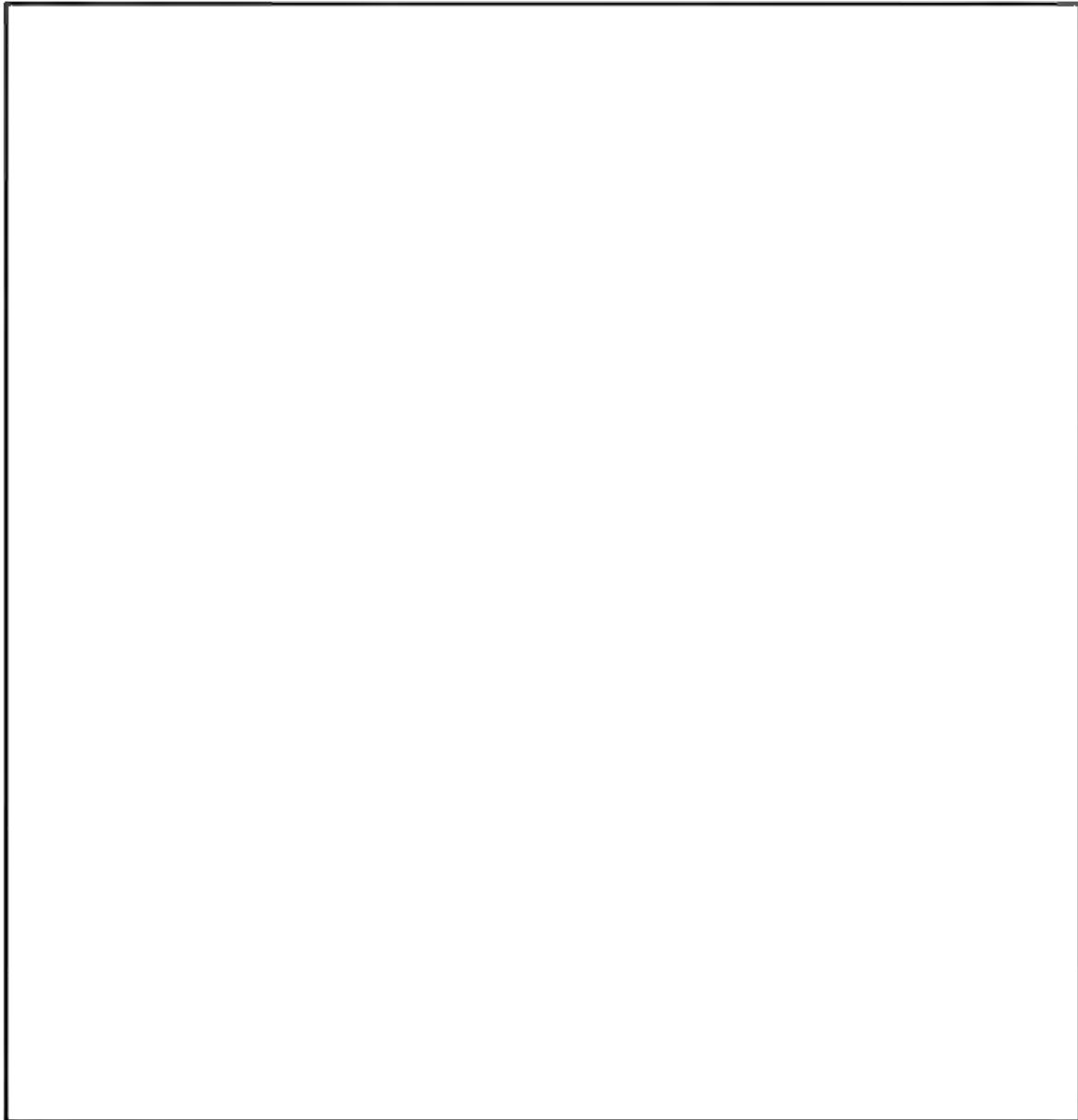
OG call

Monitoring Agent:

po's

OG call from

b6 - 1, 2, 5
b7C - 1, 2, 5
b7D - 1



BS 179-262

The attached is a transcript of a telephone conversation between [REDACTED] which took place on December 31, 1974. The call was recorded with the consent of [REDACTED]

b6 - 2, 5
b7C - 2, 5
b7D - 1

BS 179-262

12/31/74

2:29

OG call:

Monitoring Agent:

po's

b6 - 2, 5

b7C - 2, 5

b7D - 1

BS 179-262

The attached is a transcript of a telephone conversation between [REDACTED] which took place on January 5, 1975. The call was recorded with the consent of [REDACTED]

b6 - 2, 5
b7C - 2, 5
b7D - 1

BS 179-262

1/5/75

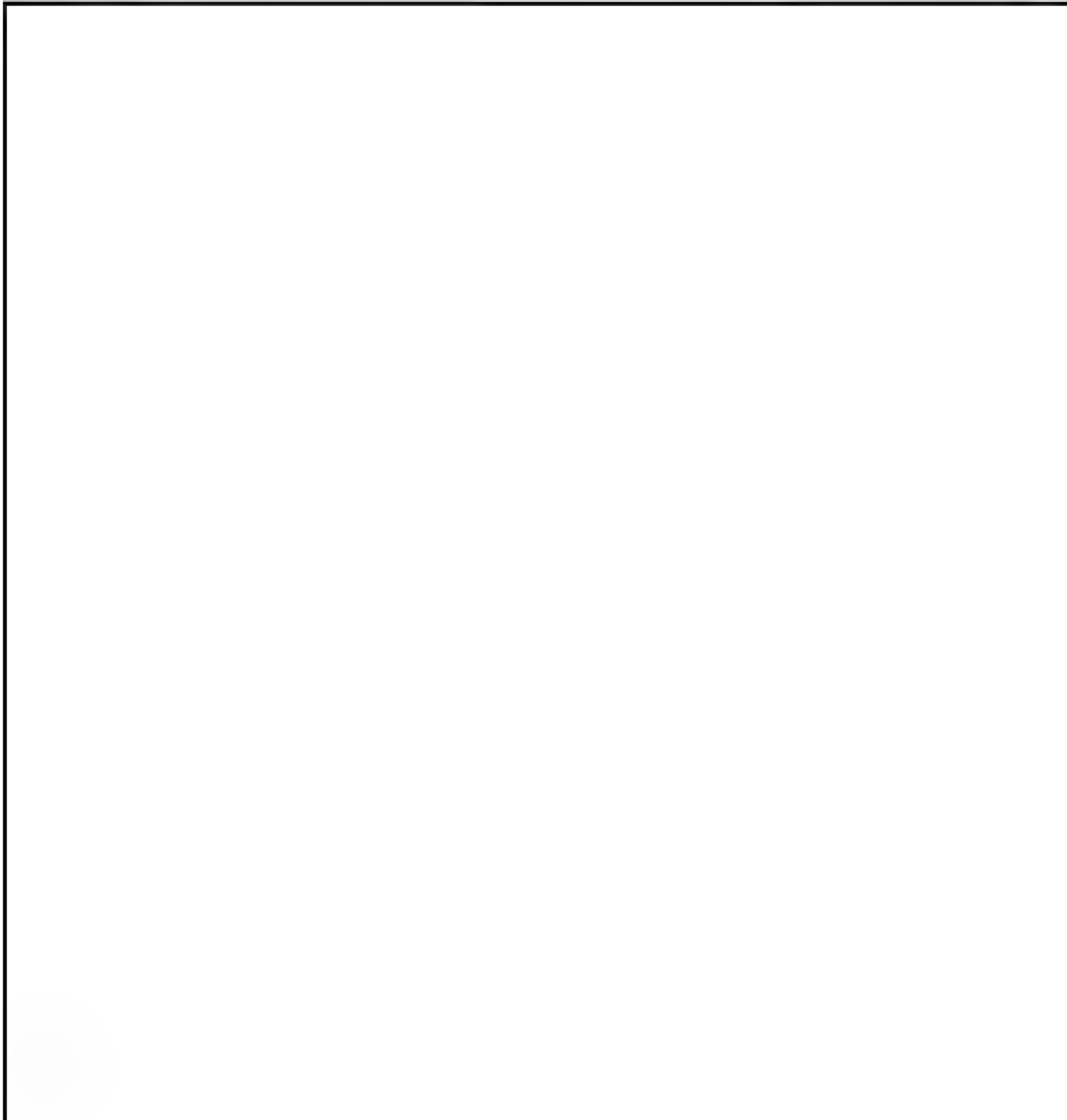
3:50 p.m.

IC call

Monitoring Agent:

po's

b6 - 1, 2, 5
b7C - 1, 2, 5
b7D - 1



FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
Civil Action# 20-cv-3269

Total Deleted Page(s) = 68

Page 11 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - 1;
Page 12 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - 1;
Page 15 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - - 1;
Page 18 ~ b6 - - 5; b7C - - 5; b7D - - 1; b7F - - 1;
Page 21 ~ b6 - - 1, 5, 6; b7C - - 1, 5, 6; b7D - - 1; b7F - 1;
Page 22 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - 1;
Page 23 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - - 1;
Page 24 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - - 1;
Page 25 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - - 1;
Page 26 ~ b6 - - 5, 6; b7C - 5, 6; b7D - - 1; b7F - 1;
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Page 28 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - - 1;
Page 29 ~ b6 - 5, 6; b7C - 5, 6; b7D - 1; b7F - 1;
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Page 34 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - - 1;
Page 35 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - - 1;
Page 36 ~ b6 - - 5; b7C - - 5; b7D - - 1; b7F - - 1;
Page 43 ~ b6 - - 1, 5, 6; b7C - - 1, 5, 6; b7D - - 1; b7F - - 1;
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Page 45 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - - 1;
Page 46 ~ b6 - - 5, 6; b7C - 5, 6; b7D - - 1; b7F - 1;
Page 47 ~ b6 - - 5, 6; b7C - 5, 6; b7D - - 1; b7F - 1;
Page 48 ~ b6 - - 5, 6; b7C - 5, 6; b7D - - 1; b7F - 1;
Page 49 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - - 1;
Page 50 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - - 1;
Page 51 ~ b6 - - 5, 6; b7C - 5, 6; b7D - - 1; b7F - 1;
Page 52 ~ b6 - - 5, 6; b7C - 5, 6; b7D - - 1; b7F - 1;
Page 53 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - - 1;
Page 62 ~ b6 - - 1, 5, 6; b7C - - 1, 5, 6; b7D - - 1; b7F - - 1;
Page 63 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - 1;
Page 64 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1; b7F - 1;
Page 65 ~ b6 - - 5; b7C - 5; b7D - - 1; b7F - - 1;
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Page 77 ~ b6 - - 5, 6; b7C - 5, 6; b7D - - 1; b7F - 1;
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Page 97 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 98 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1;
Page 104 ~ b6 - - 2, 5, 6; b7C - - 2, 5, 6; b7D - - 1;
Page 106 ~ b6 - - 5, 6; b7C - - 5, 6; b7D - - 1;
Page 112 ~ b6 - - 6; b7C - - 6;
Page 113 ~ b6 - - 6; b7C - - 6;
Page 114 ~ b6 - - 6; b7C - - 6;
Page 121 ~ b6 - - 6; b7C - - 6;
Page 128 ~ b3 - - 1; b6 - - 5, 6; b7C - - 5, 6;
Page 129 ~ b3 - - 1; b6 - - 5, 6; b7C - - 5, 6;
Page 130 ~ b3 - - 1; b6 - - 5, 6; b7C - - 5, 6;
Page 131 ~ b3 - - 1; b6 - - 5, 6; b7C - - 5, 6;
Page 132 ~ b3 - - 1; b6 - - 5, 6; b7C - - 5, 6;
Page 133 ~ b3 - - 1; b6 - - 5, 6; b7C - - 5, 6;
Page 134 ~ b3 - - 1; b6 - - 5, 6; b7C - - 5, 6;
Page 135 ~ b3 - - 1; b6 - - 5, 6; b7C - - 5, 6;
Page 136 ~ b3 - - 1; b6 - - 5, 6; b7C - - 5, 6;

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FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE BOSTON		OFFICE OF ORIGIN BOSTON		DATE 8/1/78		INVESTIGATIVE PERIOD 12/8/76 - 7/24/78	
TITLE OF CASE "CHANGED" V HOWARD T. WINTER; F II R JAMES BUDGER; IIC [REDACTED] ROBERT L. MARTIN; [REDACTED]				REPORT MADE BY SA [REDACTED] SA [REDACTED]		TYPED BY b6 - 1 b7C - 1 dn	
				CHARACTER OF CASE RICO; SPORTS BRIBERY; ITWI A my			
				TOP TEN FUGITIVE; II Teacher Owen II, 49.265-21 F II, FUGITIVE II		b6 - 2 b7C - 2 8-22-78 ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 7/9/01 BY SP7C/CWC	
ACCOMPLISHMENTS CLAIMED		<input checked="" type="checkbox"/> NONE		ACQUIT-TALS		CASE HAS BEEN:	
CONVIC.	SERIAL DIVISION	FUG.	FINES	SAVINGS	RECOVERIES	PENDING OVER ONE YEAR <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
APPROVED RFB				SPECIAL AGENT IN CHARGE		DO NOT WRITE IN SPACES BELOW	
COPIES MADE: ③ - Bureau (copies con't Cover Page B) 2 - Boston (183-298)						123-1868-2 REC-120 DE-18 17 AUG 10 1978	
Dissemination Record of Attached Report				Notations			
Agency				EUB/SUP. [Handwritten signatures and initials]			
Request Recd.	CC, AAG, Criminal						
Date Fwd.	Division, Organized Crime						
How Fwd.	Racketeering Section,						
By	Room 2244			FBI(20-cv-3269)-258			

BS 183-298

(copies con't)

- 1 - Albany (info)
- 1 - BQMRA (info)
- 1 - Buffalo (info)
- 1 - Detroit (info)
- 1 - Las Vegas (info)
- 1 - Newark (info)
- 1 - New Rochelle (info)
- 1 - New York (info)
- 1 - Omaha (info)
- 2 - Philadelphia
 - (1 - Strike Force Attorney [redacted])
- 1 - Pittsburgh (info)
- 1 - Strike Force, Boston, MA
- 1 - United States Attorney, Boston, MA

b6 - 4
b7C - 4

Title marked "CHANGED" to include additional names of subjects. For information of receiving offices, this matter previously carried under Boston file 165-1004, captioned "[redacted] aka ET AL, ITWI." b6 - 2
b7C - 2

^{NR}
REFERENCE: Boston airtel to Director, 7/21/78.

- P -

LEADS

BOSTON

AT BOSTON, MASSACHUSETTS

Will continue to coordinate prosecution in this matter with AUSA [redacted] and Chief Strike Force Attorney [redacted] b6 - 4
b7C - 4

ADMINISTRATIVE

Information copies of this report are being sent to receiving offices as they have either conducted investigation in this matter or may be asked to conduct investigation in the future.

B
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FBI(20-cv-3269)-259

FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 4/3/78

[redacted] who was formerly known as [redacted] was located and interviewed at South Lake Tahoe, California. He was immediately advised of the identity of interviewing agents and the fact that they wished to question him regarding certain aspects of a large scale race fixing scheme which took place primarily on the east coast of the United States, and which centered on the years 1974 and 1975. Specifically, [redacted] was asked regarding certain aspects of this scheme which took place in the Las Vegas, Nevada area during this time frame. [redacted] advised as follows:

b6 - 5
b7C - 5

During 1974 and 1975, he was very active in Las Vegas, Nevada as a mover of money and an odds maker on sporting events. He stated that he was connected to LILO GALANTE from New York. (GALANTE has been identified as a top echelon member of La Cosa Nostra by law enforcement authorities.)

Specifically regarding the race fix scheme, [redacted] advised that money from the illegal wagers which were placed by [redacted] race fixing group was filtered through the Las Vegas area and that he, [redacted] was the recipient of information regarding these wagers so that he could be in on the play. [redacted] stated that he would receive this information from various sources which he had in the Las Vegas, Nevada area who were involved in gambling, both legal and illegal. [redacted] stated that since there were large amounts of wagers being passed through Las Vegas on fixed races, it was necessary for a high ranking member of organized crime to okay these wagers going through the Las Vegas area. [redacted] advised the high ranking member of organized crime in this specific instance is ANTHONY SALERNO, from New York City, New York. (SALERNO has been identified as a high level member of La Cosa Nostra by law enforcement authorities.)

b6 - 2, 5
b7C - 2, 5

Regarding specific individuals who were in on this play and a little background on each, [redacted] advised as follows:

b6 - 5
b7C - 5

[redacted] formerly a casino executive at the Stardust Hotel and Casino, Las Vegas, Nevada, who was

b6 - 2
b7C - 2

Investigation on 3/20/78 at Lake Tahoe, California File # BS 165-1004

SA's [redacted] and TJD/dn Date dictated 3/27/78

b6 - 1
b7C - 1

C
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FBI(20-cv-3269)-260

BS 165-1004

2.

connected to MEYER LANSKY [redacted] duties would generally be to okay people for credit and officially greet people and try to bring business into the hotel. [redacted] was also connected with an individual by the name of FRANK "LEFTY" ROSENTHAL. ROSENTHAL, according to [redacted] is a big man in Las Vegas and connected to members of the Chicago organized crime family. b6 - 2, 5 b7C - 2, 5

[redacted] - affiliated with the Dunes Hotel and Casino in Las Vegas, was also in on the play. During this time, [redacted] stated it was his impression that [redacted] was a pit boss at the Dunes. b6 - 2, 5 b7C - 2, 5

[redacted] - a hotel executive at the Riviera Hotel and Casino, Las Vegas, Nevada. Regarding [redacted] [redacted] stated that some four or five years ago, a law enforcement agency took \$1 million and [redacted] safety deposit box which was located in Ceasar's Palace Hotel and Casino, Las Vegas, Nevada. [redacted] also was well acquainted with HOWARD WINTER and members of his gang. b6 - 2, 5 b7C - 2, 5

ROBERT L. MARTIN, who was formerly a legal bookmaker who had his license revoked, is one of the foremost odds makers on sporting events in the United States. MARTIN was formerly from the Washington, D. C. area and came to Las Vegas several years ago. [redacted] stated that between MARTIN and ROSENTHAL they have more outlets for illegal wagers layoffs than anyone in the United States. b6 - 5 b7C - 5

[redacted] stated that one of the bookmakers who suffered tremendous losses as a result of this scheme was an individual who had the nickname [redacted] and whose true name is [redacted] (phonetic). As a result of this scheme, [redacted] went into his father-in-law's safety deposit box in Las Vegas and took several hundred thousand dollars to pay off losses which were the direct result of this scheme. [redacted] father-in-law is extremely rich and is from the b6 - 2, 5 b7C - 2, 5

✓
D
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BS 165-1004

3.

b6 - 2, 5, 6

b7C - 2, 5, 6

Houston, Texas area. [] father-in-law made him divorce his wife as a result of this scheme and made [] wife return to Texas. [] was described by [] as follows: dark hair, light skin, 5'8", chunky build, 45 - 50 years of age, sloppy dresser. He stated that [] may possibly be working as a clerk in a bookie office for illegal bookmaker [] also took a beating on this horse race fix scheme.

Another bookmaker who took a beating on this scheme from Las Vegas was [] According to [] [] had a legal book. b6 - 5, 6
b7C - 5, 6

[] stated that many of the wagers which were initially phoned into [] MARTIN, [] and [] others, would be filtered down to both legal and illegal bookmakers. Most of the people who received the information at the outset from these four individuals would have been in on the play and thus did not lose any money as a result of this scheme. However, as the wagers were filtered down further, the recipients of these wagers would be big losers like [] [] stated that it would be impossible to determine or identify the number of bookmakers who lost vast amounts of money as a result of this scheme perpetrated by the so called [] race fixing group. b6 - 2, 5, 6
b7C - 2, 5, 6

E
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FBI(20-cv-3269)-262

FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 4/4/78

[redacted] was located and interviewed at Sacramento, California by Special Agents [redacted]. [redacted] has previously been debriefed by Special Agent [redacted] on several occasions in connection with a large scale race fix scheme which he masterminded and which was financed by members of organized crime, in particular, HOWARD WINTER and members of his so called gang which are based in Somerville, Massachusetts. [redacted] was being interviewed at this time regarding the so called Pennsylvania aspect of this case as well as certain occurrences which took place in Las Vegas, Nevada during the scheme itself. Agents [redacted] were confining the time period regarding both Las Vegas and Pennsylvania and their respective aspects in the race fix scheme through the years 1974 and 1975. [redacted] provided the following information regarding the Las Vegas aspect of this race fix scheme:

When [redacted] would fix a race at a given track, he would then have certain runners which would bet an amount of monies through the mutual windows inside the track. Also, either [redacted] HOWARD WINTER, [redacted]

[redacted] or others connected with HOWARD WINTER and [redacted] would place illegal wagers with bookmakers, including at least four individuals in the Las Vegas, Nevada area. The four individuals who were the main contact for this group in this race fix scheme are as follows: ROBERT L. MARTIN, [redacted]

[redacted] The Las Vegas people would, through their contacts, move a certain amount of money on a given horse, which was handicapped by [redacted] in a fixed race. This horse would more than likely be one of three or four remaining "live horses" meaning that these horses in fact had a chance to actually win the race. The other horses would theoretically be stopped from placing in either the win, place, or show positions through bribery of either a jockey, trainer, or owner or other race track official. The bets which would be placed with the illegal bookmakers would generally be across the board wagers, that is, monies placed in the win, place and show position. This would insure an almost certain return on the monies which would be bet illegally. The four abovementioned

Investigation on 3/21/78 at Sacramento, California File # BS 165-1004

SA's [redacted] and [redacted] /dn Date dictated 3/28/78

b6 - 1
b7C - 1

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FBI(20-cv-3269)-263

BS 165-1004

2.

b6 - 2, 5
b7C - 2, 5

Las Vegas individuals would move as much money as they could on one of [redacted] horse races and then make a phone call to either [redacted] WINTER or others in WINTER's group, advising them prior to post time of the fixed race how much money had been bet. [redacted] indicated that there was one other individual who played an important role in the Las Vegas aspect of this scheme and that was one [redacted] [redacted] an illegal bookmaker, who originally was from the Boston area but relocated to the Las Vegas, Nevada area. According to [redacted] would be one of the first individuals called by either him or a member of the WINTER group to place these illegal wagers through the contacts of these Las Vegas people. It would be [redacted] duty to locate any or all of the above four mentioned Las Vegas individuals and advise them to immediately call back to either Somerville, Massachusetts to one of the WINTER gang or to [redacted] himself at the specific location where he would be located, where in fact the race would be fixed. The reason for the call back to either Somerville or to [redacted] himself would be that [redacted] or the Somerville people could personally tell the calling individual whom to bet on in a given race.

[redacted] stated that since the scheme involved betting on almost sure winners, through illegal bookmakers, and some of these illegal bookmakers were located or at least contacted through people in Las Vegas. It was necessary to receive an okay to operate this scheme from a high ranking member of organized crime. [redacted] stated that the high ranking member of organized crime who okayed the Las Vegas aspect of this particular scheme was in fact an individual by the name of ANTHONY SALERNO. SALERNO has been identified as a member of La Cosa Nostra from New York, New York and according to [redacted] would be in a position to okay this particular part of the scheme.

b6 - 5
b7C - 5

G
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FBI(20-cv-3269)-264

The individuals mentioned above would be contacted according to [] in the manner set forth above, either personally or by a member of the WINTER crew at the following locations:

b6 - 5
b7C - 5

ROBERT MARTIN, during this period of time, would have been contacted at the Churchhill Downs Bookstore, which, according to [] he supposedly has an interest in but would not have his name on any of the papers showing ownership in this location. [] would more than likely be reached at the Las Vegas Country Club or his apartment in Las Vegas. According to [] [] had an apartment which was located a couple of miles from the Las Vegas Country Club. The other three individuals would have been located at the hotels in which they worked during this period of time and are as follows: [] at the Dunes, [] at the Tropicana and [] at the Riviera. [] stated that both [] were okayed by R. L. MARTIN to participate in this scheme. [] re-emphasized the point, however, that ANTHONY SALERNO would have the overall say in allowing this scheme to be perpetrated through Las Vegas. [] stated that as a general procedure, neither he nor [] would call the people in Las Vegas to pass on the necessary information so that they could place wagers on the fixed horse race, however, during some races at Pocono Downs in Pennsylvania and at both Garden State and Atlantic City in New Jersey, it became necessary for one reason or another for [] or [] to make calls to Las Vegas in order to forward this information to these individuals. By way of explanation, [] stated that either WINTER or members of his gang would not be in a position to make the telephone calls to Las Vegas since they would be tied up on "other business" involving the gang's activities. [] stated that he personally talked to the above five mentioned Las Vegas individuals on occasion and forwarded to them the necessary information so that the Las Vegas aspect of this scheme

b6 - 2, 5, 6
b7C - 2, 5, 6

H
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could be accomplished. [] further stated that the settle up with the people in Las Vegas would be on a weekly basis and an individual by the name of [] from the greater Boston area would on many occasions be the courier for the monies flowing from Las Vegas to the Somerville crowd in connection with this scheme. [] stated that to the best of his knowledge he cannot remember the Somerville people ever having to send money to Las Vegas since all the wagers placed with these people were winners, that is to say that at least the horse in which they placed wagers on came in either the first, second or third positions. Also, regarding this particular aspect, [] stated that it was a very, very rare occasion when any of the horses they would place wagers on would come in the third position. Thus, even though a horse on which they placed wagers through the Las Vegas people might have come in second, they would win enough money to both cover their illegal wagers so that the difference would be their gross profit, payable by the Las Vegas people. [] stated that he does not have any specific knowledge of the people in Las Vegas making any money off this scheme personally, however, it is his educated opinion that these individuals would in fact place wagers in excess of the amount for the so called Somerville gang of HOWARD WINTER. Any of the excess naturally would represent the particular individual's own wager and accordingly, any profit gained from that wager would belong to that specific individual. [] stated that his personal contact with the abovementioned five Las Vegas people was limited, however, at one time or another, he has spoken personally to all these individuals in connection with this scheme over the telephone and has met on at least one occasion with the majority of these individuals. He stated that in particular, [] would take [] to the Las Vegas Country Club when [] was in the Las Vegas, Nevada area.

I*
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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to: 1 - Strike Force, Boston, Massachusetts
(Attn: Chief Strike Force Attorney [redacted])
1 - United States Attorney, Boston, Massachusetts b6 - 1, 4
(Attn: AUSA [redacted]) b7C - 1, 4

Report of: [redacted] Office: Boston, Massachusetts
Date: 8/17/78

Field Office File #: 183-298

Bureau File #:

Title: HOWARD T. WINTER;

[redacted]
JAMES BULGER;[redacted]
ROBERT L. MARTIN;b6 - 2
b7C - 2

Character: RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS;
SPORTS BRIBERY; INTERSTATE TRANSMISSION OF WAGERING INFORMATION

Synopsis: In 12/76, SA's of the FBI, Boston Division, traveled to b6 - 5
Trenton, NJ and met with state authorities, as well as b7C - 5
[redacted] who was then incarcerated on state b7D - 1
b7F - 1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/19/02 BY SP10/mwC

BS 183-298

TABLE OF CONTENTS

	<u>PAGES</u>
NARRATIVE.....	5 - 9
SUFFOLK DOWNS.....	10 - 107
LINCOLN DOWNS.....	108 - 177
ROCKINGHAM RACE COURSE.....	178 - 208
POCONO DOWNS.....	209 - 290
NEW JERSEY.....	291 - 296
LAS VEGAS.....	297 - 302
INTERVIEWS.....	303 - 336
CONTACTS WITH AUSA, BOSTON AND STRIKE FORCE ATTORNEY, BOSTON.....	337 - 338

Details:

This investigation had been ongoing in several divisions of the Federal Bureau of Investigation (FBI), including the Boston Division, since complaints were received from various sources of information regarding a large scale race fixing [redacted] which was [redacted] and [redacted] by members of Organized Crime. In 1975, [redacted] the San Francisco Division of the FBI [redacted]

b6 - 1, 5
b7C - 1, 5
b7D - 1
b7F - 1

[redacted] was interviewed by Special Agent [redacted] of the FBI, Boston Division, at Trenton, New Jersey. The outcome of the interview, which was done with the full cooperation and participation of New Jersey state authorities, was that [redacted]

[redacted] as well as race track personnel and others involved in a race fix scheme, [redacted]

In March, 1977, SA's [redacted] traveled to [redacted]

[redacted] role of certain members of Organized Crime in the scheme, as well as a specific race which was fixed at the Lincoln Downs Race Track in the state of Rhode Island. At this de-briefing, it was ascertained by Agents that certain additional materials would be necessary to properly de-brief [redacted] regarding the races.

b6 - 1, 5
b7C - 1, 5
b7D - 1
b7F - 1

BS 183-298

During the de-briefing at both Bourne, Massachusetts and Sacramento, California, [] described the scheme, which worked as follows:

b6 - 5
b7C - 5
b7D - 1
b7E - 1

BS 183-288

b6 - 5, 6
b7C - 5, 6
b7D - 1
b7F - 1

[REDACTED]

These wagers represented the "lions share" of the proceeds from the race fix scheme. Generally, members of the WINTER gang, based in Somerville, Massachusetts, would receive

[REDACTED] if he was at an out of state race track.

[REDACTED] would handicap a horse from the live horses in a fixed race and members of the WINTER gang would then bet this horse across the board, that is, win, place and show bets with illegal bookmakers. [REDACTED] specifically,

bookmakers connected to HOWARD WINTER would be told not to accept wagers on the live horses in a fixed race but on

occasion they would "move money" on the horse that [REDACTED] picked as the prospective winner in a fixed race. Also, through contacts the WINTER gang had in Las Vegas, Nevada, namely, ROBERT L. MARTIN, [REDACTED]

b6 - 5, 6
b7C - 5, 6
b7D - 1
b7F - 1

[REDACTED] money would be moved through Las Vegas on the prospective winner of a fixed race. [REDACTED] stated the Las Vegas people were an intricate part of the scheme since they had a vast amount of contacts in the legal and illegal bookmaking field both in Las Vegas itself and throughout the country. [REDACTED] an okay to operate through Las Vegas was obtained by members of the WINTER gang from ANTHONY "FAT TONY" SALERNO, an identified Organized Crime figure in the New York City, New York area.

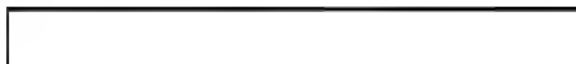
[REDACTED]

b6 - 5
b7C - 5
b7D - 1
b7F - 1

BS 183-298

SUFFOLK DOWNS RACE TRACK

SECTION A
RACES FIXED



b6 - 5
b7C - 5

BS 172-
2

Height: 5 feet 1 inch

Weight: 110 pounds

Hair: Brown

Eyes: Brown

Marital status: Single

Occupation: Jockey

Social Security
Number:

Alien registration
number:

Father:

JOSE (deceased)

Mother:

Girlfriend:

b6
b7C

106.

FBI(20-cv-3269)-277

BS 183-298

ROCKINGHAM RACE COURSE

SECTION A
RACES FIXED BY

b6 - 5
b7C - 5

ROCKINGHAM PARR

Owners— 1, Harris R E; 2, Bridgman Stable; 3, Spartan Stable Inc; 4, Wiggins A J; 5, Luti A F; 6, Trandec Stable; 7, Samia G; 8, Edgar E E; 9, Borodock & Smith.

Overweight: Selectman 4 pounds; Quick Romance 3; Pep Miele 4; Tahloo Tahloo 2; Emporer's Jubilee 3.

SEVENTH RACE Rockingham

JULY 25, 1975

1 MILE 70 YARDS. (1.39%) CLAIMING. Purse \$4,500. 3-year-olds and upward. Weights, 3-year-olds, 116 lbs. Older, 122 lbs. Non-winners of three races since May 17 allowed 3 lbs. Two races since then, 5 lbs. A race since then, 8 lbs. Claiming Price \$7,500; 2 lbs. for each \$250 to \$7,000.

Value of race \$4,500, value to winner \$2,700, second \$900, third \$450, fourth \$225, fifth \$135, sixth \$90. Mutuel pool \$40,793.

Last Raced	Horse	Eql	A	Wt	PP	St	1/4	1/2	3/4	Str	Fin	Jockey	Ci'g	Pr	Odds \$1
11Jly75 7Rkm1	Sunny Beach	b	5	115	1	3	5 1/2	3 1/2	2nd	3rd	1 1/2	Riera R Jr	7250		2.90
16Jly75 10Rkm4	Hot Singe	4	117	4	2		1st	11	1 1/2	22	23	Capalbo P	7500		1.80
16Jly75 10Rkm5	Tudor's Plume	4	114	3	5		63	5 1/2	46	31	32 1/2	Manganello M	7500		5.80
20Jly75 7Rkm1	Art's Voice	b	8	119	2	1	2 1/2	2 1/2	3 1/2	4 1/2	4 1/2	Gambardella C	7500		4.40
16Jly75 10Rkm8	Eye On The Sky	b	6	117	7	7	7	7	5 1/2	5 1/2	5 1/2	Haire D	7500		6.70
16Jly75 10Rkm9	O B's Viking	b	6	110	6	5	4 1/2	4 1/2	6 1/2	6 1/2	6 1/2	Carrozzella M	7000		11.90
11Jly75 7Rkm4	Safety Blitz	b	8	115	5	4	3rd	6 1/2	7	7	7	Meade D Jr	7500		12.70

OFF AT 4:33 EDT. Start good, Won driving. Time, :23 1/2, :47, 1:12 1/2, 1:38 1/2, 1:43 Track muddy.

\$2 Mutuel Prices:

1-SUNNY BEACH	7.80	4.20	3.20
4-HOT SINGE		3.40	2.60
3-TUDOR'S PLUME			3.60
\$2 PERFECTA 1-4 PAID			\$25.60.

B. h. by Handsome Boy—Pay Sand, by Doswell. Trainer Alhard E T. Bred by Hobeau Farm Inc (Fla).

Owners— 1, Jest Stable; 2, Mission Stable; 3, Testa L; 4, Sipp B K; 5, San Fran Stable; 6, Grinold W H; 7, Shannon G T.

Overweight: Safety Blitz 1 pound.

Scratched—Foiled In Flight (9Jly75 10Rkm8).

EIGHTH RACE Rockingham

JULY 25, 1975

6 FURLONGS. (1.98%) ALLOWANCE. Purse \$6,000. 3-year-olds and upward, non-winners of \$2,750 three times other than maiden, starter or claiming in 1974-75. Weights, 3-year-olds, 116 lbs. Older, 122 lbs. Non-winners of \$3,000 twice since May 17 allowed 3 lbs. \$3,000 once since May 17, 5 lbs. Two races in 1975, 8 lbs. A race since July 7, 16 lbs. (Maiden, Starter or Claiming races not considered in allowance.)

Value of race \$6,000, value to winner \$3,500, second \$1,200, third \$600, fourth \$300, fifth \$180, sixth \$120. Mutuel pool \$77,196.

Last Raced	Horse	Eql	A	Wt	PP	St	1/4	1/2	3/4	Str	Fin	Jockey	Odds \$1
12Jly75 8Rkm1	Bow Ski	b	3	116	4	3	25	12 1/2	15	12 1/2	12 1/2	Meade D Jr	1.70
18Jly75 8Rkm7	One More Dream	b	4	112	5	6	61	34	24	24 1/2	24 1/2	Feagin C	4.90
6Jly75 8Rkm3	Greek J. G.	b	5	112	8	4	5nd	53	5 1/2	3 1/2	3 1/2	Manganello M	7.50
26Jun75 6Suf3	Virtue's Reward	b	5	111	1	8	8	6nd	67	41	41	Kurtz J	7.70
11Jly75 6Rkm2	David's Joy	b	5	116	6	1	3rd	42 1/2	4nd	53	53	Broussard M	25.50
12Jly75 8Rkm4	Lord Nashua		3	113	3	5	12	22	32	5 1/2	5 1/2	Prosper G	2.10
13Jly75 8Rkm5	Rated G	b	4	110	2	7	72	76	7 1/2	7 1/2	7 1/2	Brown D	12.30
7Nov74 9Aqt10	Marsh Cat	b	4	116	7	2	41	8	8	8	8	Hanks	29.10

OFF AT 5:01 EDT. Start good, Won easily. Time, :21 1/2, :44 1/2, 1:10 1/2 Track fast.

\$2 Mutuel Prices:

4-BOW SKI	5.40	3.20	2.60
5-ONE MORE DREAM		5.00	3.50
8-GREEK J. G.			5.00

B. g. by Caribbean Line—May-Lor—El; by Ski-Jor—Ram. Trainer Holman M F. Bred by Justice P S (Ky).

Owners— 1, Boyd W L; 2, Onal Farm; 3, Merckmac Stable; 4, Goldblatt B E; 5, Robarn Stable; 6, Pine Hill Stable; 7, Knezevich & Robinson; 8, Thren & Stable.

Overweight: Virtue's Reward 2 pounds; David's Joy 8 lbs; Rated G 1; Marsh Cat 4.

NINTH RACE Rockingham

JULY 25, 1975

1 MILE 70 YARDS. (1.39%) CLAIMING. Purse \$2,600. 3-year-olds and upward, non-winners of three races since October 15. Weights, 3-year-olds, 116 lbs. Older, 122 lbs. Non-winners of two races since May 17 3 lbs. Two races since April 20, 5 lbs. Two races since April 20, 8 lbs. Claiming Price \$2,000.

Value of race \$2,600, value to winner \$1,550, second \$520, third \$260, fourth \$130, fifth \$78, sixth \$52. Mutuel pool \$36,435.

Last Raced	Horse	Eql	A	Wt	PP	St	1/4	1/2	3/4	Str	Fin	Jockey	Ci'g	Pr	Odds \$1
19Jly75 4Rkm4	Barbaching	b	0	122	10	9	10	9	5 1/2	36	11	Meade D Jr	2000		4.80
18Jly75 8Rkm5	Frampton Sea	b	3	114	4	5	3rd	5nd	22	11	22 1/2	Santos T	2000		5.90
4Jly75 2Suf2	Un impressed	b	5	115	3	4	2 1/2	11	1 1/2	2nd	38	Hanks L	2000		4.20
17Jly75 3Rkm5	Stormer	b	8	119	7	2	7nd	61	31	44	44	Capalbo P	2000		4.50
30Apr75 1GS3	Orbit N Win		5	114	2	7	92	10	9	74	5nd	Delgado R	2000		7.50
18Jly75 9Rkm4	Found Her Shoe	b	5	114	1	6	61	82	73	6nd	65	Carrozzella M	2000		11.30
19Jun75 9Suf4	Framed Bird	b	5	114	6	10	8 1/2	71	8nd	8 1/2	7nd	Smith B	2000		21.20
25Jun75 5Suf6	Ya No Llano	b	5	114	5	6	11 1/2	22	4nd	51	82	Maffeo C	2000		8.20

A F; 6, Yraedec
er's Jubilee 3.

ds and upward.
es since May 17
ing Price \$7,500;

uel pool \$40,793.

Cl's Pr Odds \$1
7250 2.90
7500 1.80
7500 5.80
7500 4.40
7500 6.70
7000 11.90
7500 12.70

4.20 3.20
3.40 2.50
3.60

(Fla).
Grinold W H;

upward, non-
4-75. Weights,
17 allowed 3
July 7, 10 lbs.

Mutuel pool
Odds \$1
1.70
4.90
7.50
7.70
25.50
2.10
12.30
29.10

3.20 2.60
5.00 3.60
5.00

S (Ky).
ble; 6, Pine

upward, non-
der, 122 lbs.
t. Two races

pool \$36,435.

Pr Odds \$1
800 4.80
000 5.90
000 4.20
000 4.50
000 7.60
300 11.30
700 21.20
300 8.20

ROCKINGHAM PARK

10Jly75 2Rkm ²	Capin	b 5 109 9 1	45 41 61 9 9	man W	2000 19.80
13Jly75 10Rkm ⁸	Capin	b 7 119 8 3	31 31 — — —	Riera R Jr	2000 6.20

Copain, Eased.
OFF AT 5:29, EDT. Start good, Won driving. Time, :23 $\frac{1}{2}$, :47 $\frac{1}{2}$, 1:14 $\frac{1}{2}$, 1:42 $\frac{1}{2}$, 1:45 $\frac{1}{2}$ Track muddy.
\$2 Mutuel Prices: 11-BARBACHINO 11.60 6.20 3.40
5-FRAMPTON SEA 8.00 4.60
4-UNIMPRESSED 3.00
TRIFECTA 11-5-4 PAID \$396.00.

Ch. g, by Indian Hero—Suechee Lou, by Noble Hero. Trainer Anthony Priscilla. Bred by Evans T M (Ky).
Owners— 1, Cobb A; 2, Cindon Stable; 3, Hargrave & Shotts; 4, Cohen & Wilcox; 5, Mermount Stable;
6, Lagreca & White; 7, Shure, own Sta; 8, E B Stable; 9, Heitner E & G; 10, Kiselewski G T.
Overweight: Unimpressed 2 pounds.
Scratched—Sultan's Gun (18Jly75 2Rkm⁷); Blazing View (18Jly75 2Rkm⁶).

Attendance 8,664. Total Mutuel Pool \$690,306.

SALEM, NEW HAMPSHIRE, SATURDAY, JULY 26, 1975—ROCKINGHAM PARK
Meeting scheduled for 67 days (July 5 to September 21). Sunday racing. No racing Tuesdays.
18th Day. WEATHER CLEAR. TEMPERATURE 77 DEGREES

FIRST RACE 6 FURLONGS. (1.08%) CLAIMING. Purse \$3,400. 3-year-olds and upward. Weights, 3-year-olds 116 lbs.; Older 122 lbs. Non-winners of three races since May 17, allowed 3 lbs. Two races since then 5 lbs. A race since then, 8 lbs. Claiming Price \$3,200.

Last Raced	Horse	Eqt A	Wt	PP	St	1/4	1/2	Str	Fin	Jockey	Cl's Pr	Odds \$1
30Jun75 5Suf10	Pat and Turn	b	4 117	2	8	8th	71	53	12	Maffeo C	3200	34.70
19Jly75 1Rkm3	Prince Fiddle	b	9 117	8	2	21 $\frac{1}{2}$	1nd	11	23	Riera R Jr	3200	2.80
19Jly75 1Rkm1	Running Hitch	b	5 119	1	3	11 $\frac{1}{2}$	11	21 $\frac{1}{2}$	31 $\frac{1}{2}$	Curtia W	3200	5.10
13Jly75 3Rkm12	Your Good	b	6 114	7	4	72	52	41	4nd	Gambardella C	3200	63.30
19Jly75 2Rkm4	My Wonderment	b	5 117	9	7	63	34	31	5nd	Capalbo P	3200	5.30
16Jly75 2Rkm1	Retroact	b	5 117	4	10	91	6nd	61	63	Prosper G	3200	13.70
20Jly75 2Rkm1	Foolish Lad	b	6 119	3	5	4nd	106	84	7nd	Hanks L	3200	6.90
17Jly75 5Rkm3	To Hoyle	b	4 114	5	6	31	4nd	73	83	Swatman W	3200	7.30
21Jly75 2Rkm1	Dagmar's Boy	b	10 117	12	9	106	92 $\frac{1}{2}$	91	9nd	Eastman R	3200	13.80
19Jly75 2Rkm2	Brentwood	b	6 117	6	11	11 $\frac{1}{2}$	112	115	101	Nemetz W	3200	6.70
14Jly75 5Rkm8	Bon David	b	5 114	11	1	5nd	63	101	113	Donnelly E C	3200	23.50
14Jun75 10Suf7	Brik	b	7 117	10	12	12	12	12	12	Posillo M	3200	23.90

OFF AT 1:54 EDT. Start Good, Won driving. Time, :22 $\frac{1}{2}$, :46 $\frac{1}{2}$, 1:12 $\frac{1}{2}$ Track fast.

Official Program Numbers

\$2 Mutuel Prices: 2-PAT AND TURN 71.40 22.20 11.20
8-PRINCE FIDDLE 4.20 2.80
1-RUNNING HITCH 4.40

Ch. g, by Carbonated—Sweet Mama, by Papa Redbird. Trainer Parenti J. Bred by Foaster Heatley Farm Inc (H.Mex).
Owners— 1, Perriello A & F; 2, Chevy A B Stable; 3, Sipp B K; 4, Zeppetella E; 5, Cesarero R; 6, Pastor J; 7, Bianco & Orsini; 8, Morin H; 9, Lakeview Stable; 10, P & K Stable; 11, Derry Hill Farm; 12, Avellino A & J.
Corrected weight: Your Good 114 pounds.
Scratched—French Legend (21Jly75 2Rkm³); Gun Ruler (19Jly75 2Rkm⁴).

SECOND RACE 6 FURLONGS. (1.08%) CLAIMING. Purse \$3,800. 3-year-olds and upward. Weights, 3-year-olds 116 lbs.; Older 122 lbs. Non-winners of three races since May 17, allowed 3 lbs. Two races since then 5 lbs. A race since then 8 lbs. Claiming Price \$4,250; if for \$4,000 allowed 5 lbs.

Last Raced	Horse	Eqt A	Wt	PP	St	1/4	1/2	Str	Fin	Jockey	Cl's Pr	Odds \$1
19Jly75 2Rkm1	Laugh Back	b	4 116	6	1	11	1nd	1nd	11	Paul C	4000	3.00
7Jun75 5Suf14	Aibi Fella	b	6 114	2	6	51	37	36	22	Mineau G	4250	5.00
19Jly75 3Rkm2	Just Knighted	b	6 114	1	7	31	22	23	35 $\frac{1}{2}$	Mercier N	4250	5.60
19Jly75 5Rkm11	Armenian Picnic	b	5 117	5	10	86	812	61	4nd	Haire O	4250	8.80
21Jun75 10Suf10	Proscutto	b	8 114	9	3	61 $\frac{1}{2}$	71	41 $\frac{1}{2}$	53 $\frac{1}{2}$	Lapensee M	4250	21.00
19Jly75 3Rkm5	Maylasian	b	5 119	3	2	21 $\frac{1}{2}$	42	51	61	Baez R	4250	7.90
5Jly75 3Rkm12	Trader Nick	b	5 111	8	4	41 $\frac{1}{2}$	51	71	7nd	Swatman W	4000	44.40
5Jly75 5Rkm12	Swingin Destiny	b	5 114	10	5	73	61	820	815	Donnelly E C	4250	40.90
21May75 5Suf4	Cookie Lenahan	b	5 114	4	8	920	9	9	9	Ernst P	4250	2.90
11Jun75 7Suf6	Fencer	b	4 114	7	9	10	—	—	—	Gambardella C	4250	9.80

ROCKINGHAM PARK

SIXTH RACE Rockingham

JULY 24, 1975

6 FURLONGS. (1.08%) CLAIMING. Purse \$3,800 3- and 4-year-olds. Weights: 3-year-olds, 116 lbs.; 4-year-olds, 122 lbs. Non-winners of three races since May 17 allowed 3 lbs.; two races since then, 5 lbs.; a race since then, 8 lbs. Claiming price \$5,000; for each \$500 to \$5,000 allow 2 lbs.

Value of race \$3,800, value to winner \$2,280, second \$750, third \$380, fourth \$190, fifth \$114, sixth \$75. Mutuel pool \$50,984.

Last Raced	Horse	Eql A	Wt	PP	St	1/4	1/2	Str	Fin	Jockey	Cl's	Pr	Odds
9Jly75 7Rkm ⁶	Pushy Native	b	4	119	7	3	3rd	1st	1st	1st	Giovanni J	6000	8.50
11Jly75 6Rkm ⁴	Chop's Ruler	b	4	117	4	5	2 1/2	2 1/2	2 1/2	2nd	Beckon D	6000	9.40
21Jun75 7Suf ³	Western Square	b	3	115	1	2	46	41 1/2	33	31 1/2	Meade D Jr	6000	3.50
17Jly75 5Rkm ¹	Wish I Did		3	112	8	6	65	51 1/2	4th	41 1/2	Smith B	5000	3.80
10Jun75 7CD ⁷	Cesere's Heir	b	3	114	5	7	7 1/2	7 1/2	6th	5th	Mercier N	6000	15.00
10Jly75 2Bow ⁵	Okeeb L		4	112	3	8	8	8	74	6 1/2	Kurtz J	5000	4.30
9Jly75 7Rkm ⁷	Lipa Doo		4	114	6	4	5 1/2	64	54	710	Deronen J	6000	12.30
12Jly75 3Rkm ¹	Naussett Light	b	4	117	2	1	12 1/2	3 1/2	8	8	Delgado R	6000	2.60

OFF AT 4:04 EDT. Start good, Won driving. Time, :21 1/4, :45, 1:11 1/4 Track fast.

\$2 Mutuel Prices:

7-PUSHY NATIVE	19.00	8.20	5.60
4-CHOP'S RULER		9.40	5.80
1-WESTERN SQUARE			4.60

dk b or br, g, by Bold Effort—Miss Native, by Native Talent. Trainer Munk H C. Bred by Levin Mrs M (Pa). Owners—1, Black Oak Farm; 2, Lambros J; 3, Wienges O H & Son; 4, Willard E; 5, Dario B A; 6, G M Cheevers Stables Inc; 7, Arta Stabe & Siegle L; 8, Lakeview Stable. Overweight: Western Square 4 pounds, Cesere's Heir 3 Okeeb L 2. Scratched—Exact Text (16Jly75 7Rkm²).

SEVENTH RACE Rockingham

JULY 24, 1975

1 MILE 70 YARDS. (1.39%) ALLOWANCE. Purse \$4,500. 3- and 4-year-olds. Weights: 3-year-olds, 116 lbs.; 4-year-olds, 122 lbs. Non-winners of a race since July 7 allowed 3 lbs.; a race since June 17, 5 lbs.; since May 17, 8 lbs.

Value of race \$4,500, value to winner \$2,700, second \$900, third \$450, fourth \$225, fifth \$135, sixth \$90. Mutuel pool \$38,606.

Perfecta Pool \$46,304.

Last Raced	Horse	Egt	A	Wt	PP	St	1/4	1/2	3/4	Str	Fin	Jockey	Odds \$1
17Jly75 6Rkm ²	Tansy Bitters	b	3	113	7	5	42	2nd	2 1/2	11	17 1/2	Carrozzella M	1.50
17Jly75 5Rkm ⁶	Janedvar	b	3	108	4	1	12	13 1/2	1st	2 1/2	2nd	Amico V ⁸	11.40
13Jly75 5Rkm ⁸	Minnie Mike	b	3	113	6	9	9	9	7th	51	3rd	Prosper G	21.00
30Jun75 7Suf ⁵	Fil To Flirt		3	108	3	3	31 1/2	3rd	51	42	4 1/2	Capalbo P	12.50
12Jly75 6Rkm ³	Proper Conduct		3	115	2	2	52	51	42	31	52	Hanks L	3.50
12Jly75 5Rkm ²	Janie Bugs	b	3	110	3	8	64	64 1/2	63	73	61	Brown D	8.90
10Jly75 7Rkm ¹⁰	Yea Verily	b	3	114	5	4	2nd	44 1/2	3rd	6th	75 1/2	Palomino J	9.80
17Jly75 6Rkm ⁵	Dr. Manly	b	3	113	1	6	83	81	87	86	86	Haire D	8.90
13Jly75 5Rkm ²	Molinel	b	3	108	8	7	71	71	9	9	9	Greco TS	7.00

OFF AT 4:32, EDT. Start good, Won driving. Time, :22 3/4, :45 1/4, 1:10 1/4, 1:38 3/4, 1:43 3/4 Track fast.

\$2 Mutuel Prices:

7-TANSY BITTERS	5.00	3.80	2.60
4-JANEDVAR		7.00	4.60
6-MINNIE MIKE			4.80
\$2 PERFECTA 7-4 PAID	\$38.80.		

Ch. c, by Jim J—Horse Queen, by Royal Gem II. Trainer Bresnahan M J. Bred by Tuckerman Mr—Mrs B Jr (Mass). Owners—1, Grindol W H; 2, Tomasello Virginia; 3, Minassian Bros Stable; 4, Lukacs & Rodriguez; 5, Shotts & Wheeler; 6, Knezevich & Robinson; 7, Ardolino & Linet; 8, Wienges O H & Son; 9, Dec-Bob Stable. Overweight: Minnie Mike 5 pounds, Fil To Flirt 5; Proper Conduct 4; Janie Bugs 2; Yea Verily 3; Dr. Manly 2; Molinel 2. Scratched—Viking Arise (16Jly75 5Rkm⁴).

EIGHTH RACE Rockingham

JULY 24, 1975

6 FURLONGS. (1.08%) ALLOWANCE. Purse \$6,000. 3-year-olds and up. Non-winners of three races other than maiden, claiming or starter in 1975. Weights: 3-year-olds, 116 lbs.; older, 122 lbs. Non-winners of \$5,000 in 1975 allowed 3 lbs.; \$3,500 twice in 1975, 5 lbs.; two races since April 30, 8 lbs.; a race since then, 10 lbs. (Maiden, starter or claiming races not considered in allowances).

Value of race \$6,000, value to winner \$3,600, second \$1,200, third \$600, fourth \$300, fifth \$180, sixth \$120. Mutuel pool \$61,262.

Last Raced	Horse	Eql	A	Wt	PP	St	1/4	1/2	Str	Fin	Jockey	Odds	St
6Jly75 8Rkm ¹	Beating Drum		5	114	4	4	3 1/2	24	1 1/2	1 ^{mo}	Gambardella C	1.40	
13Jly75 8Rkm ¹	El Arish		4	114	2	2	21	11	25	23	Curtin W	3.70	
17Jly75 8Rkm ³	Bird of Iron	b	4	117	3	6	5 1/2	61 1/2	41	33 1/2	Maffeo C	4.20	
4Jly75 4Suf ³	Donatama	b	4	117	7	1	53	51 1/2	3 rd	4 1/2	Meade D Jr	7.00	
7Jly75 8Rkm ⁶	Grudgy Twerp	b	4	114	5	3	41 1/2	4 th	53	54	Carrozzella M	8.60	
2Jly75 5Suf ²	Fun Flight	b	7	112	1	5	1 st	3 1/2	61 1/2	610	Capalbo P	13.40	
12Mar75 5Aqu ⁴	Cameo Johnny		5	107	6	7	7	7	7	7	Stone R ³	7.40	

OFF AT 5:00 EDT Start good, Won driving. Time, :21 3/4, :44, 1:10 1/4 Track fast.

\$2 Mutuel Prices:

HEATING DRUM

4.80

31

2.60

1-EL AKISH

4

2.80

3-BIRD OF IRON

4

2.60

B. h. by Native Rhythm—Struck, by Jettland, Trainer Steen H K Jr. Bred by Hughes J E (Va).

Owners—1, Dristefano & Steen Jr.; 2, M G B Stable; 3, Smith Franklin G; 4, Price Jr & Soileau; 5, Hobeau Farm; 6, Fortens Helen; 7, Big Boy Stable.
 Scratched—Double Hit (4Jly75 5Suf2).

NINTH RACE**Rockingham**

JULY 24, 1975

1 MILE 70 YARDS. (1.30%) CLAIMING. Purse \$2,600. 3-year-olds and up. Weights: 3-year-olds, 145 lbs.; older, 122 lbs. Non-winners of three races since May 17 allowed 3 lbs.; two races since then, 5 lbs.; a race since then, 8 lbs. Claiming price \$2,000.

Value of race \$2,600, value to winner \$1,560, second \$520, third \$260, fourth \$130, fifth \$78, sixth \$52. Mutuel pool \$29,967.

Trifecta Pool \$41,814.

Last Raced	Horse	Eq	A	Wt	PP	St	1/4	1/2	3/4	Str	Fin	Jockey	Cl'g	Pr	Odds \$1
19Jly75 5Rkm11	Vip's Rounder	b	6	122	8	3	52	52	32 1/2	21	11	Haire D	2000		7.70
11Jly75 9Rkm8	Valley Boss	b	5	114	4	2	2nd	21	1nd	12	22 1/2	Creco T	2000		15.20
10Jly75 9Rkm5	Mesmer	b	6	114	6	7	73 1/2	74 1/2	4hd	43	34	Mercier N	2000		12.20
12Jly75 1Rkm2	Brass Hat	b	6	114	2	3	11	13	23	32	42	Prosper G	2000		1.40
13Jly75 10Rkm10	George's Bid	b	7	117	7	8	8	8	77	51	56	Donnelly E C	2000		22.90
10Jly75 9Rkm1	Sum Fancy	b	5	119	3	1	31	4hd	62	612	611	Meade D Jr	2000		5.60
4Jly75 4Suf3	Free Drinks	b	9	117	1	6	52	63	51	712	714	Broussard M	2000		7.00
7Jly75 4Rkm4	Im Gonna Whirl	b	7	117	5	4	41	3hd	8	8	8	Paul C	2000		3.00

OFF AT 5:29, EDT. Start good, Won driving. Time, :23 3/4, :47 1/4, 1:12 3/4, 1:40 3/4, 1:45 Track fast.

\$2 Mutuel Prices:

8-VIP'S ROUNDER

17.40

9.80

4-VALLEY BOSS

12.00

11.40

6-MESMER

8.60

\$3 TRIFECTA 8-4-6 PAID \$3,117.00.

dk b or br. g. by Redeem—Judy Rounders, by Rounders, Trainer Applestein S. Bred by Bohannon Mr-Mrs N (Ind).
 Owners—1, Applestein S; 2, Anthony R E; 3, Daniels E J Jr; 4, Merrimack Stable; 5, Robinson Mr-mrs J W; 6, Soileau & Waguespack; 7, Robarn Stable; 8, Cataldo N A.

Corrected weight: Im Gonna Whirl 117 pounds.

Brass Hat was claimed by Armstrong T Mrs; trainer, Armstrong B R.

Scratched—Harve A Party (17Jly75 9Rkm7); Night Traces (13Jly75 4Rkm5); Donkey Doctor (23Jly75 2Rkm11).

Attendance 7,945. Total Mutuel Pool \$611,714.

SALEM, NEW HAMPSHIRE, FRIDAY, JULY 25, 1975—ROCKINGHAM PARK

Meeting scheduled for 67 days (July 5 to September 21) Sunday racing. No racing Tuesdays.

18th Day. WEATHER CLOUDY. TEMPERATURE 78 DEGREES

FIRST RACE**Rockingham**

JULY 25, 1975

6 FURLONGS. (1.08%) MAIDEN CLAIMING. Purse \$2,200. 3-and-4-year-olds. Weights, 3-year-olds, 116 lbs. 4-year-olds, 122 lbs. Claiming Price \$7,500.

Value of race \$2,200, value to winner \$1,920, second \$640, third \$320, fourth \$160, fifth \$96, sixth \$64. Mutuel pool \$25,770.

Last Raced	Horse	Eq	A	Wt	PP	St	1/4	1/2	Str	Fin	Jockey	Cl'g	Pr	Odds \$1
	Mermaid Rain	b	3	115	3	5	1 1/2	14 1/2	17	15	Meade D Jr	7500		2.00
29Aug14 2Crc9	Prince Of What	b	3	116	4	6	5 1/2	21	24	25 1/2	Brown D	7500		9.80
22Jun75 4Suf4	Psychic Judge	b	3	118	10	8	10 1/2	83	52	3no	Baez R	7500		12.10
14Jly75 7Rkm8	Quench	b	4	122	1	9	84	61	42	42	Donnelly E C	7500		4.10
22Jun75 4Suf5	Mary Mag	b	3	106	8	3	3hd	31	31	51 1/2	Amico V5	7500		7.40
13Jly75 5Rkm11	Dinkum Landing	b	4	122	2	10	113	101	85	61	Carrozzella M	7500		65.80
29Jun75 1Suf12	Ms. Bresnahan	b	4	117	11	4	6 1/2	7hd	71	73 1/2	Smith B	7500		36.50
1Jun75 3Hol10	Royal Barbican	b	4	117	5	7	2 1/2	4hd	61	82 1/2	Salinas J	7500		6.40
5Jly75 7Rkm10	Summer Edge	b	3	116	7	12	12	12	12	91 1/2	Swatman W	7500		59.50
	San Par	b	3	113	9	11	94	92	91	102	Haire O	7500		52.50
1Jun75 1Suf9	Stratus Joy	b	3	114	6	2	41	51	103	11hd	Eastman R	7500		53.20
20Jly75 4Rkm9	Cotter	b	3	116	12	1	71	115	112	12	Capalbo P	7500		4.40

OFF AT 1:40, EDT. Start good, Won easily. Time, :22 3/4, :46 1/4, 1:13 3/4 Track muddy.

Official Program Numbers:

\$2 Mutuel Prices:

3-MERMAID RAIN

6.00

5.00

4.00

4-PRINCE OF WHAT

9.80

8.80

10-PSYCHIC JUDGE

6.00

dk b or br. f. by Umbrella Fella—Here's Nepune, by Neptune, Trainer Lewis J F. Bred by Lewis James F III (Md).
 Owners—1, Pennyacres Farm; 2, Minassian Bros Stable; 3, Reynolds W P Estate of; 4, Watts W; 5, Barbanti Mrs M; 6, Webber W; 7, Hobeau Farm; 8, Hargrove & Shotts; 9, Three Sons' Stable; 10, Krance Barbara; 11, Petite Stable; 12, Mission Stable.

ROCKINGHAM

Rain 4 pounds; San Par 2; Stratus Joy 3.
ong.

SECOND RACE Rockingham

JULY 25, 1975

6 FURLONGS. (1.08%) CLAIMING. Purse \$2,500. 3-year-olds and upward, non-winners of three races since October 15. Weights, 3-year-olds, 116 lbs. Older, 122 lbs. Non-winners of two races since May 17, 3 lbs. Two races since April 30, 5 lbs. Two races in 1975, 8 lbs. Claiming Price \$2,000.

Value of race \$2,500, value to winner \$1,500, second \$500, third \$250, fourth \$125, fifth \$75, sixth \$50. Mutuel pool \$48,267.

Last Raced	Horse	Eql.A.Wt	PP	St	1/4	1/2	Str	Fin	Jockey	Ct'g	Pr	Odds
16Jly75 5Rkm7	Ed n Mert	b	7	116	2	8	82	6th	44	1st	Hanks L	2000
16Jly75 5Rkm4	Swapmeet	b	122	9	4		44	11	11	22	Haire D	2000
21Jun75 3Suf2	Arctic	b	109	3	6		21	31	23	31	Stone R5	2000
18Jly75 2Rkm2	Terry's	b	115	7	2		51	53	3rd	43	Meade D Jr	2000
18Jly75 9Rkm11	Resolts	b	122	5	7		7th	74	5th	54	Prosper G	2000
20Jly75 2Rkm5	Mr. Geo	b	114	8	1		31	42	5th	63	Delgado R	2000
19Jly75 2Alt6	Amaspy	b	114	4	9		92	84	84	7th	Donnelly E C	2000
17Jly75 9Rkm4	Keys to	b	106	6	3		11	2nd	75	86	Amico V5	2000
11Jly75 2Rkm7	Dana's	b	110	1	10		10	10	93	91	Manganello M	2000
18Jly75 2Rkm6	Good Nurse	b	4	112	10	5	6th	9th	10		Prozzella M	2000

OFF AT 2:15 EDT. Start good, Won driving. Time, :22 3/4, :46 1/4. Track muddy.

\$2 Mutuel Prices:	2-ED N MERT	7.00	7.20
	9-SWAPMEET	6.60	6.00
	3-ARCTIC DEACON		8.40

dk b or br. g, by Royal Rex—Stratodru, by Escadru. Trainer: Trafton W C. Bred by Kemling Mr—Mrs P M (Neb).

Owners—1, Damon R Jr; 2, Federico R D; 3, Bartoni W F; 4, LaFleur C S; 5, Quinn R A; 6, Olympic Stable; 7, Salvaggio J; 8, Digeronimo & Posco; 9, Kramer Jane G; 10, Arta Stable.

Overweight: Ed n Mert 2 pounds; Terry's Hat 1; Keys to the Family 3; Dana's Choice 1.

Swapmeet was claimed by Soileau J Y; trainer, same.

Scratched—Royal Arctic Oil (9Jly75 2Rkm5); Live Round (13Jly75 2Rkm12); George Burrows (17Jly75 2Rkm3); Ginger Pete (14Jun75 8W010).

\$2 Daily Double 3-2 Paid \$44.00. Daily Double Pool \$65,834.

THIRD RACE Rockingham

JULY 25, 1975

6 FURLONGS. (1.08%) CLAIMING. Purse \$2,500. Fillies & Mares. 3-year-old and upward, non-winners in 1975. Weights, 3-year-olds, 114 lbs. Older, 120 lbs. Claiming Price \$2,500.

Value of race \$2,500, value to winner \$1,580, second \$560, third \$280, fourth \$140, fifth \$84, sixth \$56. Mutuel pool \$32,962.

Perfecta Pool \$47,450.

Last Raced	Horse	Eql.A.Wt	PP	St	1/4	1/2	Str	Fin	Jockey	Ct'g	Pr	Odds
30Jun75	Design	b	5	120	9	1	21	12	12	11	Ricci A	2500
6Jly75	Fashion	b	5	120	4	7	77	51	32	22	Casey R	2500
36May75	Water	b	4	120	6	2	51	32	41	31	Riera R Jr	2500
18Jly75	One	b	4	120	7	5	61	21	2nd	42	Fezgin C	2500
7Jly75	Sunset	b	5	115	3	8	81	82	64	51	An I O5	2500
16Jly75	Leale	b	5	115	2	6	31	61	53	63	Gill L R5	2500
14Jly75	Kiss	b	5	120	8	3	4th	41	71	71	Paul C	2500
24Oct74 3Alt8	Pepper's Lady	b	5	120	1	9	9	9	89	81	Ernst P	2500
7Jly75 2Rkm8	Pluck's Doll	b	6	120	5	4	11	71	9	8	Haire D	2500

OFF AT 2:44 EDT. Start good, Won driving. Time, :22 3/4, :46 1/4. Track muddy.

\$2 Mutuel Prices:	9-SILKEN DESIGN	21.40	5.60	3.60
	4-FANCY FASHION		2.80	2.40
	6-ELTIN WATER			4.40
	\$2 PERFECTA 9-4 PAID	\$69.60.		

B. m, by Exclusive Design—Wild Silk, by Piet. Trainer LaFleur G. Bred by West End Farm (N.J.).

Owners—1, Sarris G; 2, Grummo C; 3, Gloucester Farm; 4, McKay & Kennedy; 5, Chucky C Stable; 6, Parisi P J Jr; 7, Degude R D; 8, Miller C; 9, Four Winds Farm.

FOURTH RACE Rockingham

JULY 25, 1975

5 FURLONGS. (.56%) MAIDEN CLAIMING. Purse \$3,000. 2-year-olds. Weight, 118 lbs. Claiming Price \$5,500.

Value of race \$3,000, value to winner \$1,800, second \$600, third \$300, fourth \$150, fifth \$90, sixth \$60. Mutuel pool \$58,381.

Last Raced	Horse	Eql.A.Wt	PP	St	1/4	1/2	Str	Fin	Jockey	Ct'g	Pr	Odds
17Jly75 4Rkm6	Here Come's Snappy	b	2	118	3	2	11	11	11	11	Meade D Jr	5500
9Jly75 4Rkm7	Half Okie	b	2	118	4	5	31	21	22	24	Hanks L	5500
17Jly75 4Rkm5	Empress Lynne	b	2	115	10	1	5th	42	34	34	Capalbo P	5500
17Jly75 4Rkm7	Francis Dancer	b	2	115	7	10	91	7th	52	41	Nemeti W	5500
15Jly75 2Bow6	Faw Nashua	b	2	110	6	8	8th	84	62	55	Stone R5	5500

ROCKINGHAM PARK

2Jly75 3Suf4	Tell	b	2115	8	6	41	52	73	61	Giov	5500	2.60
18Jly75 4Rkm3	Better Dolly	b	2110	2	3	22	31	4nd	71	Amico	5500	8.30
10Jly75 4Rkm3	Dolly Pardon	b	2115	9	9	101	9nd	92	8no	McGill vary E	5500	178.30
18Jly75 4Rkm4	Bird Of Rome	b	2130	11	4	62	6nd	81	92	Polania S5	5500	14.00
	Marquee	b	2118	1	11	112	102	103	102	Eastman R	5500	51.50
18Jly75 4Rkm3	Miss Rose Lee	b	2115	5	12	12	12	112	112	Smith B	5500	32.20
18Jly75 4Rkm7	Ruling Countess	b	2110	12	7	7nd	112	12	12	Greco T5	5500	111.60

OFF AT 3:11 EDT. Start good, Won driving. Time, :23 $\frac{1}{2}$, :48 $\frac{1}{2}$, 1:07 $\frac{1}{2}$ Track muddy.

\$2 Mutuel Prices:

4-HERE COME'S SNAPPY	23.80	9.40	4.60
5-HALF OKIE		5.80	3.80
11-EMPRESS LYNNE			3.20

Ro. g, by Lucky Link—Plain Dog, by Lap Dog Trainer Soileau J Y. Bred by Tate J (La).
 Owners— 1, Soileau & Waquespack, 2, Hargrove & Sullivan; 3, Caputo J; 4, Davis A T; 5, Hill E H; 6, Josepson S I, 7, Deslongcamp P; 8, Gottsman & Saunders; 9, Smith Franklin G; 10, LeBlanc H J; 11, E B Stable, 12, Moore W R.
 Scratched—Lady's Hat (4Jun75 3Suf4); Happy Duel.

FIFTH RACE Rockingham

6 FURLONGS. (1.08%) CLAIMING. Purse \$2,800. Fillies 3-and-4-years-old, non-winners of three races at any time. Weights, 3-year-olds, 114 lbs. 4-year-olds, 120 lbs. Non-winners of two races since May 17, 3 lbs. Two races since April 30, 5 lbs. A race since June 17, 8 lbs. Claiming Price \$2,500.

Value of race \$2,800, value to winner \$1,680, second \$560, third \$280, fourth \$140, fifth \$84, sixth \$56. Mutuel pool \$37,396.

Perfecta Pool \$489,366														
Last Raced	Horse		Eqt.	A.	Wt	PP	St	1/4	1/2	Str	Fin	Jockey	Cl'g	Pr Odds \$1
3Jly75 1Suf5	Goldberry		3	111	3	7		51	311	23	11	Maffeo C	2500	11.00
18Jly75 1Rkm4	Jolly Look	b	3	113	6	3		22	12	13	24	Santos T	2500	3.30
11Jly75 2Rkm3	Breezy's Gal	b	4	113	1	4		41	41	32	3nd	Giovanni J	2500	14.90
6Jly75 3Rkm10	Cambridget	b	4	112	2	8		95	51	53	4nd	Lopez J	2500	4.70
2Jly75 4Suf1	Miss Patty Lou		3	109	8	2		131	24	4nd	51	Bielan N5	2500	7.20
17Jly75 2Rkm10	Summer Morning		4	113	10	1		7nd	83	62	6nd	Ernst P	2500	30.40
20Jly75 1Rkm6	Darby's Dancer		4	107	9	6		52	7nd	7nd	72	Gill L R5	2500	2.30
10Jly75 2Rkm5	Chili Creator		3	110	7	10		8nd	95	94	81	Carrozzella Mt	2500	22.30
13Jun75 5Suf4	Cohen's Lady Luck	b	4	112	4	5		33	62	84	92	Marte I	2500	5.50
18Jly75 1Rkm5	Our Cara		4	113	5	9		10	10	10	10	Haire D	2500	21.10

OFF AT 3:40 EDT. Start good, Won driving Time, :22 $\frac{1}{2}$, :47 $\frac{1}{2}$, 1:14 $\frac{1}{2}$ Track muddy.

\$2 Mutuel Prices:

3-GOLDBERRY	24.00	10.80	6.80
6-JOLLY LOOK		6.20	4.40
1-BREEZY'S GAL			5.00
3-6 PAID \$117.60.			

B. f, by James River—Solicitation, by Requested. Trainer Smith Franklin G. Bred by Eaton D (N.H.).
 Owners— 1, Smith Franklin G; 2, Keen Judith Anne; 3, Tufo V; 4, Travers & Williams; 5, Martinez R; 6, Caulk T A; 7, Novak M L; 8, Pew Sandra; 9, Boda Mrs A; 10, Alphonse Maria.
 1 Apprentice allowance waived: Chili Creator 5 pounds.
 Overweight: Jolly Look 4 pounds, Breezy's Gal 1, Miss Patty Lou 5; Summer Morning 1; Chili Creator 4; Our Cara 1.
 Scratched—Sky Relic (17Jly75 2Rkm2); Spring Market (16Jly75 7Rkm5); Paula Jayne (18Jun75 6Suf5); Effortless (17Jly75 2Rkm1).

SIXTH RACE Rockingham

6 FURLONGS. (1.08%) CLAIMING. Purse \$3,300. 3-and-4-year-olds, non-winners of three races at any time. Weights, 3-year-olds, 116 lbs. 4-year-olds, 122 lbs. Non-winners of two races since May 17, 3 lbs. Two races since April 30, 5 lbs. Two races in 1975, 8 lbs. Claiming Price \$3,500; 2 lbs. for each \$250 to \$6,000.

Value of race \$3,300, value to winner \$2,280, second \$760, third \$360, fourth \$180, fifth \$114, sixth \$76. Mutuel pool \$75,918.

Last Raced	Horse	Eq.	A.	WT	PP	St	1/4	1/2	Str	Fin	Jockey	Cl'g	Pr	Odds \$1
13Jun75 7CD7	Lucky Roa	b	4	114	6	2	4nd	231	11	11	Gar V U	6500	5.80	
16Jly75 7Rkm3	Selectman	b	3	108	3	4	11	12	22	21	Greco T	6000	4.50	
11Jly75 5Bow6	Quick Romance	b	3	111	5	9	72	42	33	31	Kurtz J	6500	8.00	
18Jly75 5Rkm2	Pep Miele	b	3	112	8	6	9	83	43	42	Gambardella C	6500	a-1.40	
19Jly75 7Rkm10	Ricks Ripper	b	4	122	9	3	61	61	52	5no	Diaz O C	6500	16.00	
11Jly75 3Rkm8	Halten Verboten	b	4	114	7	5	8nd	9	6nd	83	Capalbo P	6500	6.50	
11Jly75 3Rkm8	Tahtoo Tahtoo	b	3	110	4	1	21	3nd	7nd	73	Sisum T	6500	18.30	
16Jly75 6Rkm4	Emporer's Jubilee	b	3	111	1	7	3nd	7nd	84	83	Feagin C	6500	7.00	
15May75 8LD3	Ping Pong Game	b	4	117	2	8	52	5nd	9	9	Curtin W	6500	a-1.40	

a-Coupled: Pep Miele and Ping Pong Game.

OFF AT 4:06 EDT. Start good, Won driving. Time, :22 $\frac{1}{2}$, :46 $\frac{1}{2}$, 1:13 $\frac{1}{2}$ Track muddy.

\$2 Mutuel Prices:

6-LUCKY RON	13.60	6.80	6.40
3-SELECTMAN		6.00	5.40
5-QUICK ROMANCE			5.20

B. c, by Chancero—Hilda's Charm, by Phalan. Trainer Harri R E. Bred by Trobek H (Fla).

ROCKINGHAM PARK

\$2 Mutuel Prices:

6-SWEET BOY	6.80	4.20	3.40
7-SHADOW'S RED		7.00	4.80
9-REGISTERED MALE			4.50
\$2 PERFECTA 6-7 PAID \$63.60.			

B. c. by No Robbery—Collins, by Roman. Trainer Duncan F. Bred by Kroot J (Fla).
 Owners— 1, Trudun T C. 2, Kimball H A. 3, Guardia & Venezia; 4, Jost Stable; 5, Fassio & Max Sje;
 7, F & F Stable 8, Cindon Stable; 9, Blackie H A
 Overweight: Sweet Boy 2 pounds; Fun At Sea 2. Under the Blue 1; Verna Potential 3; M
 Sweet Boy was claimed by Galdys Hall, trainer, LaFlamme H; Herod's Hall was claimed by
 Lainer, Hasbany D.

EIGHTH RACE Rockingham AUGUST 4, 1975

6 FURLONGS. (1.08%) CLAIMING. Purse \$5,000. 3-year-olds. Weights, 122 lbs. Non-
 winners of three races since May 17, allowed 3 lbs.; two races since then, 5 lbs.; a race
 since then, 8 lbs. Claiming price \$12,500; 2 lbs. for each \$1,000 to \$10,500.

Value of race \$5,000, value to winner \$3,000, second \$1,000, third \$500, fourth \$250, fifth \$150, sixth \$100. Mutuel pool
 \$84,359.

Last Raced	Horse	Eqt	A	Wt	PP	St	1/4	1/2	3/4	Str	Fin	Jockey	Cl'g	Pr	Odds	\$1
14Jly75 8Rkm7	Annie Active	b	3	111	4	7	7	4	13	13	13	Kurtz J	10500		9.70	
30Jly75 7Rkm7	Colonial Point	b	3	110	3	3	4	3	3	3	3	Riera R Jr	10500		9.70	
21Jly75 8Rkm1	Verna's Pride	b	3	117	2	5	6	6	6	6	6	Manganello M	12500		2.30	
28Jly75 8Rkm3	Yea Verily	b	3	117	6	6	3	3	3	3	3	Santos T	12500		5.90	
14Jly75 7Rkm2	Curt's Pal		3	113	1	4	5	5	5	5	5	Capalbo P	10500		11.00	
21Jly75 8Rkm4	Ulah Carroll	b	3	117	7	2	1	1	1	1	1	Prosper G	12500		4.10	
14Jly75 8Rkm1	Uncle Bun	b	3	119	5	1	2	4	7	7	7	Giovanni J	12500		2.20	

OFF AT 5:04, EDT. Start good, Won driving. Time, :22½, :45½, 1:11 Track fast.

\$2 Mutuel Prices:

4-ANNIE ACTIVE	21.40	9.50	4.00
3-COLONIAL POINT		9.80	6.20
2-VERNA'S PRIDE			3.50

dk b or br. f, by Exceedingly—Action Station, by Gun Shot. Trainer Lenzini J J Sr. Bred by Jennings Helen L
 (Md).
 Owners— 1, Cheevers & M Stables Inc; 2, Sagarin P H; 3, Canmore Stable; 4, Ardolino & Linet; 5,
 Christopher Racing Stable; 6, Bakios N; 7, Wildwood Stable.
 Overweight: Annie Active 3 pounds.
 Verna's Pride was claimed by Bargarino P; trainer, Carr R J.

NINTH RACE Rockingham AUGUST 4, 1975

1 MILE 70 YARDS. (1.39%) CLAIMING. Purse \$2,600. 3-year-olds and upward, non-
 winners of two races in 1974-75. Weights, 3-year-olds, 117 lbs.; older, 122 lbs. Non-
 winners of a race since July 7, allowed 3 lbs.; a race since June 17, 5 lbs.; a race in 1975,
 8 lbs. Claiming price \$2,000.

Value of race \$2,600, value to winner \$1,560, second \$520, third \$260, fourth \$130, fifth \$78, sixth \$52. Mutuel pool \$40,136.
 Trifecta Pool \$48,703.

Last Raced	Horse	Eqt	A	Wt	PP	St	1/4	1/2	3/4	Str	Fin	Jockey	Cl'g	Pr	Odds	\$1
21Jly75 9Rkm5	Pirapo	b	7	117	4	1	3	3	2	2	2	Riera R Jr	2000		2.20	
28Jly75 9Rkm5	Seafarin' Man	b	9	114	7	3	2	2	1	1	1	Gell V D	2000		7.20	
28Jly75 9Rkm3	Cheatin Cheaters	b	6	117	1	7	4	4	4	4	4	McGillivray E	2000		3.30	
28Jly75 9Rkm6	Amber Shot		4	114	3	5	7	5	5	5	5	Donnelly E C	2000		8.20	
25Jly75 9Rkm7	Quick Kiss	b	5	107	5	2	1	1	1	1	1	Amico V S	2000		8.90	
28Jly75 9Rkm2	Lord Mayor	b	3	104	2	6	6	6	6	6	6	Stone R S	2000		2.40	
28Jly75 1Rkm12	Hasty Regard		3	107	6	4	5	7	7	7	7	Capalbo P	2000		13.30	

OFF AT 5:34 EDT Start good, Won driving. Time, :22½, :46½, 1:12½, 1:40½, 1:44½ Track fast.

\$2 Mutuel Prices:

4-PIRAPO	6.40	4.00	3.60
7-SEAFARIN' MAN		6.00	3.40
1-CHEATIN CHEATERS			3.20
TRIFECTA 4-7-1 PAID \$237.60.			

Ch. h, by Biron—Aspirina, by Malucoso. Trainer Daniels E J Jr. Bred by Haras La Paulina (Arg).
 Owners— 1, McEnery J B; 2, Holland B C; 3, Rignone J; 4, Kirkpatrick Mrs E; 5, Deguide R D; 6, Belaire
 C, 7, Ardolino E
 1 Apprentice allowance waived: Hasty Regard 5 pounds.
 Corrected weight: Lord Mayor 104 pounds
 Overweight: Quick Kiss 3 pounds; Hasty Regard 1.
 Scratched—Quibo C (3Jly75 2Suf11).

Attendance 9,489. Total Mutuel Pool \$818,774.

ROCKINGHAM PARK

SALEM, NEW HAMPSHIRE, WEDNESDAY, AUGUST 6, 1975—ROCKINGHAM PARK
Meeting scheduled for 67 days (July 5 to September 21). Sunday racing. No racing Tuesdays, and Wednesday
Sept. 3rd. Morning and afternoon programs, Labor Day, Sept. 1,
28th Day. WEATHER CLOUDY, TEMPERATURE 71 DEGREES

FIRST RACE 6 FURLONGS. (1.03%) MAIDEN CLAIMING. Purse \$3,000. 3- and 4-year-olds.
Weights, 3-year-olds, 117 lbs. 4-year-olds, 122 lbs. Claiming price \$5,000; 2 lbs. for each
\$250 to \$4,500.

Rockingham
AUGUST 6, 1975

Value of race \$3,000, value to winner \$1,200, second \$600, third \$300, fourth \$150, fifth \$90, sixth \$60. Mutuel pool \$41,697.

Last Raced	Horse	Eqt	A	Wt	PP	St	1/4	1/2	Str	Fin	Jockey	Cl	g Pr	Odds \$1
30Jly75 1Rkm ³	True Path	b	3	112	4	5	42	21	22	13 1/2	Riera R Jr	5000		2.60
30Jly75 4Rkm ⁴	Sandy Beach Road	b	3	117	8	8	10	92	53	2nd	Feagin C	5000		3.80
28Jly75 1Rkm ⁸	Arex		3	115	1	3	1hd	13	1 1/2	3rd	Palomino J	4500	30.20	
20Jly75 6Rkm ⁷	Big Exchange	b	3	113	3	9	51	42	33	43	Santos T	4500	40.60	
23Jly75 1Rkm ³	Sue's Charger	b	3	113	5	7	61	64	41	51 1/2	Maaganello M	4500	7.90	
10Jly75 1Bow ³	Hugh Dennis	b	3	117	9	6	71	71	61	61	Kurtz J	5000	6.20	
23Jly75 1Rkm ⁴	Madly	b	4	117	2	10	92	8nd	73	71 1/2	Eastman R	5000	5.70	
	Aegean Song	b	3	117	10	2	81	10	8nd	82 1/2	Smith B	5000	24.40	
25Jly75 1Rkm ¹²	Cotter	b	3	117	7	4	31	5nd	92 1/2	93	Capalbo P	5000	13.10	
25Jly75 1Rkm ⁸	Royal Barbican	b	4	117	6	1	21	3nd	10	10	Hanks L	5000	3.50	

OFF AT 1:50, EDT Start good, Won driving. Time, :22 1/4, :46, 1:12 1/2 Track fast.

Official Program Numbers

\$2 Mutuel Prices: 5-TRUE PATH 7.20 3.40 3.20
9-SANDY BEACH ROAD 4.80 3.60
2-AREX 11.20

Ch. f, by Favorable Path—Gaza Stripper, by Palestinian. Trainer Allard E. T. Bred by Putriment P. L. (Conn).
Owners— 1, Putriment P. T.; 2, Duncan Mrs. F.; 3, Nagy V. A.; 4, Hearn Farm; 5, Cardillo C.; 6, Gillett B. J.;
7, Bianco & Orsini; 8, McLeod W. H.; 9, Mission Stable; 10, Hargrove & Shotts.
Overweight: Arex 2 pounds.
Scratched—San Par (25Jly75 1Rkm 0); Bonnie's Reason (30Jly75 1Rkm 7).

SECOND RACE 5 FURLONGS. (1.08%) CLAIMING. Purse \$2,500. 3-year-olds and upward, non-winners
of three races in 1974-75. Weights, 3-year-olds, 117 lbs. Older, 122 lbs. Non-winners of
two races since May 17 allowed, 3 lbs. A race in 1975, 8 lbs. Claiming price \$2,500.

Rockingham
AUGUST 6, 1975

Value of race \$2,500, value to winner \$1,580, second \$560, third \$280, fourth \$140, fifth \$84, sixth \$56. Mutuel pool \$56,316.

Last Raced	Horse	Eqt	A	Wt	PP	St	1/4	1/2	Str	Fin	Jockey	Cl g	Pr	Odds \$1
30Jly75 3Rkm ¹	Fowl Luck	b	5	119	10	2	21 1/2	11	11	12 1/2	Swatman W	2500	4.60	
1Aug75 2Rkm ⁵	Burrows		5	114	1	10	8 1/2	10	5	22 1/2	Stone R ³	2500	5.60	
24Dec72 1FG10	Watch Out Houser	b	5	114	9	7	91	71	4hd	3no	Prosper G	2500	5.80	
30Jly75 3Rkm ³	Bright Promise		7	114	4	4	51 1/2	5hd	8nd	4nd	Fabiano J	2500	2.50	
25Jly75 3Rkm ⁴	Pepper's Lady	b	5	113	2	9	10	91	92 1/2	53 1/2	Ernst P	2500	17.60	
18Jly75 2Rkm ¹¹	Boom Vang	b	6	119	5	5	1hd	25	23	6 1/2	Smith B	2500	2.70	
30Dec72 6Suf ⁷	Flashy Star		9	115	7	6	6 1/2	61	3hd	7 1/2	Marshman R	2500	39.10	
18Jly75 2Rkm ¹⁰	Windays Boy		7	115	8	3	41	41	7hd	8no	Palomino J	2500	31.90	
30Jun75 2Suf ⁴	East of East	b	5	189	6	1	3 1/2	3hd	61 1/2	91 1/2	Anil O ⁵	2500	14.40	
30Jly75 3Rkm ¹⁰	Stature Snatcher	b	4	112	3	8	71	81	10	10	O'Connell J ⁵	2500	63.60	

OFF AT 2:16, EDT Start good, Won handily. Time, :22 1/4, :46 1/2, 1:13 Track fast.

\$2 Mutuel Prices: 10-FOWL LUCK 11.20 5.40 4.20
1-BURROWS 6.00 5.80
9-WATCH OUT HOUSER 5.80

B. g, by Mal's Luck—Queen Pigeon, by King Pigeon. Trainer Becker J. Bred by Hahn H. L. III (La).
Owners— 1, Pringle V.; 2, Chas. C. Stable; 3, Hughes Nancy; 4, Belawe C.; 5, Miller C.; 6, Armstrong Mrs.
T.; 7, Nelson L. V.; 8, Tufankjian Rose; 9, Cardalino A. & W.; 10, Barnes W. T.
Overweight: Pepper's Lady 4 pounds; Flashy Star 1; Windays Boy 1.

\$2 Daily Double 5-10 Paid \$40.20. Daily Double Pool \$84,602.

THIRD RACE 5 1/2 FURLONGS. (1.04%) MAIDEN CLAIMING. Purse \$3,300. 2-year-olds. Weights, 118
lbs. Claiming price \$10,000; 2 lbs. for each \$1,000 to \$3,000.

Rockingham
AUGUST 6, 1975

Value of race \$3,300, value to winner \$1,980, second \$660, third \$330, fourth \$165, fifth \$99, sixth \$66. Mutuel pool \$51,857.

Perfecta Pool \$62,438.

Perfecta Pool \$62,438.												
Last Raced	Horse	Eqt	A	Wt	PP	St	1/4	1/2	Str Fin	Jockey	Cl g Pr	Odds \$1
23Jly75 4Rkm ³	Catch Entre	b	2	115	6	1	11	11	11 1hd	Swatman W	10000	9.10
	He Man Jr.		2	118	2	5	3hd	31	32 21 1/2	Kurtz J	10000	3.10
17Jly75 4Rkm ²	Troll By		2	118	8	11	91	72	53 31	Hanks L	10000	8.50
28Jly75 4Rkm ⁷	La Cimas Pride		2	113	9	4	23	21 1/2	23 42 1/2	Haire D	9000	6.20

ROCKINGHAM PARK

23Jly75 4Rkm4	Whirl Adair	b	2118	1	9	62	41	4th	51	Riera R Jr	10000	2.60
28Jly75 4Rkm9	Lady Stash	b	2113	3	6	5nd	61	61	61	Giovanni J	8000	12.20
16Jly75 4Rkm10	Danny Crow		2114	5	2	11	10	81	7no	Casey R	8000	46.70
21Jly75 4Rkm5	Out of the Blue		2118	10	7	10nd	11	91	81	Brown D	10000	25.10
16Jly75 4Rkm4	Well Recommended		2115	11	3	42	51	72	91	Manganello M	10000	5.40
	Little Bolt		2118	4	10	7nd	82	104	102	Mercier N	10000	17.90
28Jly75 4Rkm8	Countess Courtney	b	2115	7	8	81	91	11	11	Merde D Jr	10000	45.70

OFF AT 2:47, EDT Start good, Wen driving. Time, :22%, :46%, :49%, 1:06% Track fast.

\$2 Mutuel Prices:

6-CATCH ENTRE	20.20	7.80	7.00
2-HE MAN JR.		5.80	5.20
8-TROLL BY			7.20

\$2 PERFECTA 6-2 PAID \$195.80.

Ch. f, by Entrepreneur—Slip And Slide, by Ozbog. Trainer Christoff A. Bred by Kellogg Farms (Cal).

Owners— 1, Christoff A; 2, Marano V; 3, Hargrove & Sullivan; 4, Straus J R; 5, Imprescia D F; 6, O'Brien

T; 7, Grummo C; 8, Massian Bros Stable; 9, Murray W H; 10, Dano B A; 11, Wienges O H & Son.

Overweight: Lady Stash 2 pounds.

Scratched—Age of Elegance.

FOURTH RACE Rockingham

5 1/2 FURLONGS. (1.04%) CLAIMING. Purse \$4,000. 2-year-olds. Weights, 120 lbs. Non-winners of three races allowed, 3 lbs. Two races, 5 lbs. Maidens, 8 lbs. Claiming price \$7,500; 2 lbs. for each \$250 to \$7,000.

AUGUST 6, 1975

Value of race \$4,000, value to winner \$2,400, second \$800, third \$400, fourth \$200, fifth \$120, sixth \$80. Mutuel pool \$37,014.

Last Raced	Horse	Eqt.	A.Wt	P.P	St	1/4	1/2	Str	Fin	Jockey	Cfg	Pr	Odds	\$1
31Jly75 4Rkm4	Free Snack	b	2113	5	4	2nd	12	13	11	Hare D	7500		1.90	
31Jly75 4Rkm8	Great Republic	b	2111	1	3	42	32	21	21	Feagin C	7000		25.70	
31Jly75 4Rkm7	Vile Brew	b	2117	4	2	11	21	33	32	Baez R	7500		4.10	
18Jly75 4Rkm1	Say More		2115	3	7	7nd	53	43	42	Casey R	7500		8.80	
31Jly75 4Rkm5	Premazon	b	2111	6	8	82	72	67	54	Bojdroi D	7000		b-3.70	
21Jly75 4Rkm7	Sandra's Honor	b	2110	7	9	9	9	74	61	Amico V5	7500		b-3.70	
25Jly75 4Rkm1	Here Come's Snappy	b	2114	9	1	31	41	5nd	71	Meade D Jr	7250		7.50	
31Jly75 4Rkm6	Bob's Folly	b	2110	2	6	62	81	82	64	Greco T5	7500		6.80	
31Jly75 4Rkm9	Bright Knot	b	2112	8	5	51	61	9	9	Stone R5	7500		10.00	

b-Coupled: Premazon and Sandra's Honor.

OFF AT 3:15, EDT. Start good, Won driving. Time, :22%, :46%, 1:00, 1:08% Track fast.

\$2 Mutuel Prices:

6-FREE SNACK	5.80	4.20	3.40
2-GREAT REPUBLIC		14.80	7.20
5-VILE BREW			3.80

Ch. f, by Free Press—Light Dinner, by Volcanic. Trainer Reynolds E W. Bred by Forest C & C Farm Inc (La).

Owners— 1, Reynolds Mrs Betty; 2, Haley & McKay; 3, Dorchak D; 4, Fairweather Stable; 5, Renzi V;

6, Bertolino A; 7, Soileau & Waggoner; 8, Eon Stable; 9, Garrett J M

Overweight: Free Snack 1 pound; Here Come's Snappy 1.

Scratched—Star Press (24Jly75 7Jnd).

FIFTH RACE Rockingham

6 FURLONGS. (1.08%) STARTER ALLOWANCE. Purse \$3,600. 3-year-olds and upward who have started for a claiming price of \$2,750 or less in 1974-75. Weights, 3-year-olds, 117 lbs. 4-year-olds, 122 lbs. Non-winners of three races since May 17 allowed 3 lbs. Two races since then, 8 lbs. (Claiming races of \$3,500 or less not considered in allowance.)

AUGUST 6, 1975

Value of race \$3,600, value to winner \$2,160, second \$720, third \$360, fourth \$180, fifth \$100, sixth \$72. Mutuel pool \$60,529.

Perfecta Pool \$67,018.

Last Raced	Horse	Eqt.	A.Wt.	P.P.	St	1/4	1/2	Str	Fin	Jockey	Odds \$1
9Jly75 8Rkm5	Toeless Tom	b	7114	5	5	7	7	5 1/2	11 1/2	Brown D	4.90
26Jly75 9Rkm4	Abdul Aziz	b	6117	4	4	32	1 1/2	1 1/2	22 1/2	Snell E	2.90
23Jly75 8Rkm2	Zeezer	b	6119	1	1	42	3 1/2	32	3 1/2	Mineau G	3.10
13Jly75 8Rkm7	Beau Shine	b	6119	3	3	1hd	2 1/2	2 1/2	4nk	Ernst P	9.30
5Jly75 4Rkm9	Grey Corner	b	5117	7	7	6hd	53	69	51	Smith B	10.40
20Jly75 9Rkm3	Lagaritta Road	b	5117	2	2	21	42	4hd	64	Delgado R	6.90
16Jly75 8Rkm1	Living Color	b	7112	6	6	51	6hd	7	7	Greco T5	3.00

OFF AT 3:44 EDT Start good, Wen easily. Time, :22%, :45%, 1:11% Track fast.

\$2 Mutuel Prices:

5-TOELESS TOM	11.80	6.20	3.20
4-ABDUL AZIZ		4.40	3.00
1-ZEEZER			2.80

\$2 PERFECTA 5-4 PAID \$68.00.

dk b or br. g, by Tompion—Lusica, by Mr Busher. Trainer Lavoie W J. Bred by Jonabell Farm & Wimpfheimer (Ky).

Owners— 1, Lavoie Rose A; 2, Brown H H; 3, Pensavalli D; 4, Dawn Marie Stable; 5, Garabedian Mrs V;

6, Meremount Stable; 7, Garrett J M

Scratched—Sir R (14Jly75 5Rkm2); Just Could (25Jly75 2A11).

SIXTH RACE Rockingham AUGUST 6, 1975

6 FURLONGS. (1.08%) CLAIMING. Purse \$4,400. 3-year-olds. Weights, 122 lbs. Non-winners of three races since May 17 allowed, 3 lbs. Two races since then, 8 lbs. Claiming price \$8,000; 2 lbs. for each \$500 to \$7,000.

Value of race \$4,400, value to winner \$2,640, second \$880, third \$440, fourth \$220, fifth \$132, sixth \$88. Mutuel pool \$23,747.

Last Raced	Horse	Eql A Wl PP St	1/4	1/2	Str Fin	Jockey	C'g Pr	Odds \$1
28Jly75 7Rkm1	Tom Who	b 3 117 2 2	1 1/2	1 1/2	1 1/2	Gambardella C	8000	3.10
28Jly75 6Rkm1	Star Chart	3 117 7 5	4 1/2	1 1/2	1 1/2	Amico V	7500	12.00
23Jly75 6Rkm5	Forever Ready	b 3 108 8 3	2 1/2	1 1/2	1 1/2	Boudrot D	7000	14.10
9Jly75 6Rkm1	Dazzling Princess	b 3 110 6 6	5 1/2	5 1/2	5 1/2	do P	7000	22.20
21Jly75 6Rkm6	Ronnie's Dream	b 3 117 1 1	3 1/2	3 1/2	4 1/2	do C	8000	5.30
7Jly75 7Rkm5	Underknock	3 117 3 4	6 1/2	6 1/2	6 1/2	do Jr	8000	2.20
16Jly75 7Rkm1	Honey Cat	b 3 110 4 9	9	8 1/2	7 1/2	do Ts	7000	12.30
16Jly75 6Rkm2	Fly Jet	3 117 5 8	7 1/2	7 1/2	8 1/2	do Jr	7500	5.30
23Jly75 6Rkm1	Banda Sea	b 3 116 9 7	8 1/2	9	9	do L	7000	8.90

OFF AT 4:10 EDT Start good, Won driving. Time, :22%, :46, 1:12% Track fast.

\$2 Mutuel Prices:

2-TOM WHO	8.20	5.20	3.60
7-STAR CHART		9.20	5.00
8-FOREVER READY			7.80

Ch. c. by George Patrick—Adiosingora, by Castro II. Trainer Whiting Lynn. Bred by Greenwell W (Mo).
Owners— 1, Cornerstone Stable; 2, Mathieson R G; 3, Lakehill Ranch; 4, Christopher Racing Stable; 5, Opal Farm; 6, Sagarin P H; 7, Glazier Leslie G; 8, Lafleur C S; 9, Begins S.
Overweight: Banda Sea 3 pounds.

SEVENTH RACE Rockingham AUGUST 6, 1975

6 FURLONGS. (1.08%) CLAIMING. Purse \$4,800. 3-year-olds and upward. Weights, 3-year-olds, 117 lbs. Older, 122 lbs. Non-winners of three races since May 17 allowed, 3 lbs. Two races since then, 5 lbs. A race since then, 8 lbs. Claiming price \$10,000; 2 lbs. for each \$1,000 to \$3,000.

Value of race \$4,800, value to winner \$2,880, second \$960, third \$480, fourth \$240, fifth \$144, sixth \$96. Mutuel pool \$57,382.

Perfecta Pool \$62,776.

Last Raced	Horse	Eql A Wl PP St	1/4	1/2	Str Fin	Jockey	C'g Pr	Odds \$1
23Jly75 6Rkm1	District Judge	b 4 122 4 4	1 1/2	1 1/2	1 1/2	Meade D Jr	10000	1.10
26Jly75 4Rkm4	Sportster	b 4 112 6 3	4 1/2	1 1/2	1 1/2	McCluskey Jr	10000	5.60
10May75 6Pim7	Little Marty	b 5 114 1 6	5 1/2	4 1/2	3 1/2	do J	10000	5.70
26Jly75 4Rkm6	Norma's Knight	4 117 2 5	2 1/2	2 1/2	2 1/2	do L	10000	3.30
26Jly75 7Rkm5	Pink Professor	b 6 114 7 2	6 1/2	6 1/2	6 1/2	do J	10000	8.70
30Jly75 6Rkm5	Burnt Star	3 112 3 7	7	7	7	Riera R Jr	10000	23.40
8May75 7LD3	Roman Decade	b 4 114 5 1	3 1/2	3 1/2	4 1/2	Capalbo P	10000	10.90

OFF AT 4:46 EDT Start good, Won driving. Time, :22, :45%, 1:11% Track fast.

\$2 Mutuel Prices:

5-DISTRICT JUDGE	4.20	3.00	2.40
7-SPORTSTER		4.40	3.20
2-LITTLE MARTY			3.60
\$2 PERFECTA 5-7 PAID \$20.20.			

Ch. g. by Delta Judge—Royal Renege, by Reneged. Trainer Gifton P. Bred by Vandervoort Mr-Mrs H C Jr (Ky).
Owners— 1, Bengis S; 2, Pine Valley Stable; 3, Marano V; 4, Hargrove & Sullivan; 5, McKean Mrs Q A S; 6, Haynes W E; 7, Wheller P.
Scratched—Beller Mar (15Jly75 6Rkm3); Crishelle A. (23Jly75 6Rkm4); Gina's Viking (26Jly75 6Rkm5); Roopie's Boy (23Jly75 6Rkm7).

EIGHTH RACE Rockingham AUGUST 6, 1975

6 FURLONGS. (1.08%) ALLOWANCE. Purse \$5,500. 3- and 4-year-olds non-winners of a race other than maiden, starter or claiming in 1975. Weights, 3-year-olds, 117 lbs. 4-year-olds, 12 lbs. Non-winners of 3 races since Oct. 15 3 lbs. Two races since then, 5 lbs. A race since then, 8 lbs. (Maiden, starter or claiming races not considered in allowances).

Value of race \$5,500, value to winner \$3,300, second \$1,100, third \$550, fourth \$275, fifth \$165, sixth \$110. Mutuel pool \$90,158.

Last Raced	Horse	Eql A Wl PP St	1/4	1/2	Str Fin	Jockey	Odds \$1
26Jly75 6Rkm7	Double Theory	b 3 113 5 4	3 1/2	2 1/2	2 1/2	Ham D	9.10
5Jly75 7Rkm2	Vital Flame	3 109 4 5	6	5 1/2	3 1/2	Capalbo P	1.30
27Jly75 6Rkm7	Red Scout	b 4 114 2 1	1 1/2	1 1/2	1 1/2	Giovanni J	4.20
23Jly75 7Rkm1	Neal Tudor	b 4 109 1 6	5 1/2	3 1/2	4 1/2	Gell V D	12.60
26May75 1Aqn6	Silverbatini	3 114 6 3	4 1/2	4 1/2	5 1/2	Feagin C	1.60
20Jly75 6Rkm7	Combat Zone	b 3 106 3 2	2 1/2	6	6	Boudrot D	12.10

OFF AT 5:07 EDT. Start good, Won driving. Time, :22%, :45%, 1:11% Track fast.

\$2 Mutuel Prices:

1-DOUBLE THEORY	20.20	5.80	3.60
5-VITAL FLAME		3.00	2.40
3-RED SCOUT			3.20

ROCKINGHAM PARK

dk b or br. f, by Double Hitch—Hi Theory, by Hypothetical. Trainer Holman M F. Bred by Wienges O H & Son (S.C.).

Owners—1, Wienges O H & Son; 2, Dario B A; 3, J B Stable Inc; 4, Harris R E; 5, Amico L; 6, Minassian Bros Stable.

Overweight: Double Theory 1 pound; Combat Zone 2.

Scratched—War Maneuver (28Jly75 4Rkm4); Double Again (13Jly75 7Rkm2).

NINTH RACE Rockingham

AUGUST 6, 1975

1 MILE 70 YARDS. (139%) CLAIMING. Purse \$3,700. 3- and 4-year-olds, non-winners of three races at any time. Weights, 3-year-olds, 117 lbs. 4-year-olds, 122 lbs. Non-winners of two races since May 17 allowed, 3 lbs. Two races since April 30, 5 lbs. A race since July 5, 8 lbs. Claiming price \$5,000; 2 lbs. for each \$250 to \$4,500.

Value of race \$3,700, value to winner \$2,220, second \$740, third \$370, fourth \$185, fifth \$111, sixth \$74. Mutuel pool \$85,832.

Last Raced	Horse	Eq	A	Wt	PP	St	1/4	1/2	3/4	Str	Fin	Jockey	Ct'g	Pr	Odds \$1
30Jly75 4Rkm1	Royal Western	b	3	112	3	4	43	44	33 1/2	12 1/2	14 1/2	Kurtz J	5000		.90
11Jly75 3Rkm4	Bean Shooter	b	4	114	7	7	7	53 1/2	46	21	Meade D Jr	5000		5.00	
30Jly75 4Rkm2	Greek Candi	b	3	113	5	2	21 1/2	21	22	21	31 1/2	Santos T	5000		6.30
30Jly75 4Rkm3	John Elliott	b	4	114	6	3	3 1/2	34 1/2	1hd	3hd	41	Kunitake E	5000		10.00
30Jly75 4Rkm6	Covered Path	b	3	109	2	5	5hd	61 1/2	61	55	53 1/2	Sisum T	5000		21.30
20Jly75 3Rkm2	Gone Neelrod	b	4	109	4	6	5 1/2	5hd	7	65	612	Boudrot D	5000		8.00
30Jly75 6Rkm1	Double Breeze	b	4	114	1	1	1 1/2	1hd	41	7	7	Riera R Jr	5000		4.00

OFF AT 5:33 EDT Start good, Won easily. Time, :22 3/4, :46 3/4, 1:11 1/4, 1:38 3/4, 1:43 Track fast.

\$2 Mutuel Prices:

3-ROYAL WESTERN	3.80	3.00	2.40
7-BEAN SHOOTER		6.00	3.20
5-GREEK CANDI			2.60

Ch. c, by Western Sky II—Quiet Girl, by Royal Union. Trainer Lenzini J J Sr. Bred by Ewald J A Jr (Va).

Owners—1, Ballard J H; 2, Mill Farm; 3, Beck R; 4, L'Hewreux G & Armstrong; 5, O'Brien P; 6, Cohen & Deperro; 7, Dailey P.

Overweight: Greek Candi 4 pounds.

TENTH RACE Rockingham

AUGUST 6, 1975

1 MILE 70 YARDS. (139%) CLAIMING. Purse \$2,900. 3-year-olds and upward, non-winners of three races in 1974-75. Weights, 3-year-olds, 117 lbs. Older, 122 lbs. Non-winners of two races since May 17 allowed, 3 lbs. A race in 1975, 8 lbs. Claiming price \$2,500.

Value of race \$2,900, value to winner \$1,740, second \$580, third \$290, fourth \$145, fifth \$87, sixth \$58. Mutuel pool \$47,477.

Trifecta Pool \$55,276.

Last Raced	Horse	Eq	A	Wt	PP	St	1/4	1/2	3/4	Str	Fin	Jockey	Ct'g	Pr	Odds \$1
30Jly75 10Rkm4	Barbara Blair	b	5	112	5	3	21	21	21	1hd	1hd	Santos T	2500		13.00
26Jly75 9Rkm5	Star Bama	b	7	117	7	4	53	41	42 1/2	21	22 1/2	Donnelly E C	2500		3.00
28Jly75 9Rkm1	Barb's Serenity	b	4	119	1	2	35	36	32	31	32 1/2	Riera R Jr	2500		4.40
30Jly75 10Rkm6	Aries Man	b	4	119	6	5	4hd	55	55	54	4hd	Meade D Jr	2500		6.00
30Jly75 10Rkm9	Cheniere Pass	b	8	114	8	6	63	66	68	65	51	Feagin C	2500		17.30
26Jly75 10Rkm4	Rage Of Arrow	b	6	119	2	1	11	11	11 1/2	4hd	62	Carrozzella M	2500		2.50
30Jly75 10Rkm2	Cold Clabber	b	5	114	4	7	72	7hd	72	712	717	Manganello M	2500		3.60
14Jly75 9Rkm6	Trump Hand	b	3	109	3	8	8	8	8	8	8	Sisum T	2500		31.10

OFF AT 6:05 EDT. Start good, Won driving. Time, :24, :47 3/4, 1:12, 1:40 1/4, 1:44 3/4 Track fast.

\$2 Mutuel Prices:

5-BARBARA BLAIR	28.00	6.40	4.40
7-STAR BAMA		4.80	3.20
1-BARB'S SERENITY			2.80

\$3 TRIFECTA 5-7-1 PAID \$637.20.

B. m, by Black Mountain—Swiveling, by Yezzano. Trainer Testa C. Bred by Morrow Mrs R J E (Can).

Owners—1, Mercuri Grace; 2, Lewin J M; 3, Avelino J; 4, Soileau J Y; 5, Sara K Farm; 6, Pew K; 7, Pruitt T M; 8, Ennewetak Stable.

Attendance 12,008. Total Mutuel Pool \$1,013,329.

SALEM, NEW HAMPSHIRE, THURSDAY, AUGUST 7, 1975—ROCKINGHAM PARK

Meeting scheduled for 67 days (July 5 to September 21). Sunday racing. No racing Tuesdays, and Wednesday Sept. 3rd. Morning and afternoon programs. Labor Day, Sept. 1.

29th Day. WEATHER CLOUDY. TEMPERATURE 89 DEGREES

FIRST RACE Rockingham

AUGUST 7, 1975

5 FURLONGS. (165%) MAIDEN CLAIMING. Purse \$2,800. Maiden. 3- and 4-year-olds. Weight: 3-year-olds 117 lbs. 4-year-olds 122 lbs. Claiming price \$2,500.

Value of race \$2,800, value to winner \$1,620, second \$560, third \$280, fourth \$140, fifth \$84, sixth \$56. Mutuel pool \$27,038.

Last Raced	Horse	Eq	A	Wt	PP	St	1/4	1/2	3/4	Str	Fin	Jockey	Ct'g	Pr	Odds \$1
23Jly75 1Rkm6	Spanish Bag	b	3	117	10	1	11 1/2	13	14	18 1/2	Casey R	2500		2.60	
16Jly75 1Rkm4	Nasty Sonasta	b	3	117	1	5	52 1/2	55	31	20k	Eradfield W	2500		11.50	
28Jly75 1Rkm7	Prove It Nick	b	4	117	7	4	22	23 1/2	24	37 1/2	Gill L R	2500		3.40	

ROCKINGHAM PARK

24Jly75 1Rkm10	Stella's Uncle	b 4 122 8 6	41 41 57 42	41 W	2500	65.00
3Aug75 4Rkm12	Stella's Fella	b 3 117 9 2	32 32 41 53	41 D	2500	6.10
	Trimbiore	b 3 117 3 7	91 82 61 63	Maffeo C	2500	29.80
24Jly75 4Rkm4	Cherokee Sparkle	4 117 11 3	74 91 82 71	Palomino J	2500	14.30
	Retrop Lad	3 117 5 11	11 11 102 81	Hanks L	2500	26.60
26May75 3Rkm07	Diane M. Mags	b 3 112 4 8	61 62 73 91	Kurtz J	2500	4.50
31Jly75 1Rkm5	Debs Divot	3 112 2 10	81 7nd 92 101	Boudrot D	2500	7.60
2May75 1CD11	Up Fly	b 3 117 6 9	105 105 11 11	Manganello M	2500	18.60

OFF AT 1:47, EDT Start good, Won ridden out. Time, :22½, :47, 1:13½ Track sloppy.

Official Program Numbers

\$2 Mutuel Prices:	10-SPANISH BAG	7.20	5.40	3.20
	1-NASTY SONASTA		12.00	6.20
	7-PROVE IT NICK			3.40

Ch. g, by Bagdad—Spanish Breeze, by Windy City II. Trainer Blengs V. Dred by Laurin Mrs L. (Ky).
 Owners— 1, Laurin Mrs R; 2, Sepowitz Ida; 3, Constantino J F; 4, Beumer M; 5, Appelstein S; 6, Hartley J; 7, West Win Stable; 8, Hoots & Hargrove; 9, Leonetti N; 10, White T R; 11, Canmore Stable.
 Scratched—Needling (16Jly75 1Rkm12); Long Sought; Mud Flap (3Jly74 1CT3); Festival Lili (30Jly75 1Rkm8).

SECOND RACE

Rockingham

AUGUST 7, 1975

6 FURLONGS. (108%) CLAIMING. Purse \$2,800. Fillies. 3-and 4-years-old. Non-winners of two races at any time. Weight: 3-year-olds 115 lbs. 4-year-olds 120 lbs. Non-winners of a race since July 15 allowed 3 lbs. A race since July 1 5 lbs. A race since June 17 8 lbs. Claiming price \$2,500.

Value of race \$2,800, value to winner \$1,660, second \$560, third \$280, fourth \$140, fifth \$84, sixth \$56. Mutuel pool \$47,112.

Last Raced	Horse	EqlA Wt PP St	¼	½	Str	Fin	Jockey	Cl'g Pr	Odds \$1
31Jly75 2Rkm2	Never Argue	b 4 110 4 3	11	21	11½	11½	Anil OS	2500	3.70
23Jly75 2AP10	She's Our Fancy	b 4 112 5 7	72	61½	43	23	Manganello M	2500	22.70
31Jly75 2Rkm5	Sky Relic	b 3 108 3 8	82	82	61	30k	Capalbo P	2500	5.90
31Jly75 2Rkm7	Echo Rose	b 3 112 9 6	61	41	31½	41	Boudrot D	2500	3.20
3Aug75 4Rkm9	Spot Of Ink	b 3 111 7 1	32	1nd	22	5nd	Brown D	2500	3.30
24Jy75 2Rkm4	King's Gift	b 4 115 1 4	41	52	5nd	63½	Santos T	2500	8.00
10Jy75 3Rkm6	County Sue	b 3 112 2 9	9	9	83	71	Maffeo C	2500	31.00
17Jly75 2Rkm8	Jomaro	4 112 6 5	23	33	73	82½	Riera R Jr	2500	3.60
24Jly75 2Rkm10	Like Sayre	b 3 105 8 2	52	7nd	9	9	Stone R5	2500	34.20

OFF AT 2:14, EDT. Start good, Won driving. Time, :22½, :47½, 1:14½ Track sloppy.

\$2 Mutuel Prices:	4-NEVER ARGUE	9.40	5.80	4.20
	5-SHE'S OUR FANCY		18.20	10.20
	3-SKY RELIC			4.40

Ch. f, by Heron Court—Last of Argue, by Polycarp. Trainer Soiteau J. V. Dred by Tranan L. (La.).
 Owners— 1, Trahan L; 2, Devries E R; 3, Dorgay C; 4, Barbanti P; 5, Minnassian Bros Stable; 6, Kean Judith Anne; 7, Raphael R; 8, Burns R; 9, Toraabeue J.
 Overweight: Sky Relic 1 pound; Spot Of Ink 4; County Sue 5.
 Scratched—Patjan (31Jly75 2Rkm9); On An Island (24Jly75 2Rkm8); Summer Morning (25Jly75 5Rkm8); Lady Baker (24Jly75 2Rkm11).

\$2 Daily Double 10-4 Paid \$25.60. Daily Double Pool \$63,582.

THIRD RACE

Rockingham

AUGUST 7, 1975

6 FURLONGS. (108%) CLAIMING. Purse \$2,600. 3-year-olds and upward. Weight: 3-year-olds 117 lbs. Older 122 lbs. Non-winners of three races since May 17 allowed 3 lbs. Two races since then 5 lbs. A race since then 8 lbs. Claiming price \$2,000.

Value of race \$2,600, value to winner \$1,560, second \$520, third \$260, fourth \$130, fifth \$78, sixth \$52. Mutuel pool \$37,581.

Last Raced	Horse	EqlA Wt PP St	¼	½	Str	Fin	Jockey	Cl'g Pr	Odds \$1
1Aug75 2Rkm8	Mandrake Ernesto	b 5 109 7 2	12½	14	12½	12½	O'Connell J5	2000	9.60
2Aug75 3Rkm8	Northern Song	6 119 1 6	22½	27	29	29½	Haire D	2000	3.50
19Jly75 2Rkm5	Flotage	b 11 122 5 8	8nd	72	72	3nd	Seabo G E	2000	2.00
23Jly75 3Rkm5	Counter Prop	3 107 4 4	64	62	51	43	Gril L R5	2000	30.60
17Jly75 3Rkm8	Rough Scout	8 115 6 1	4nd	43	3nd	5nd	Diaz O C	2000	28.30
27Jly75 1Rkm5	Foolish Mary	b 5 114 8 9	9	8	8	63	Nemeti W	2000	7.40
17Jly75 9Rkm7	Harve A Party	5 114 2 7	5nd	5nd	61	7nk	Meade D Jr	2000	15.40
30Jly75 2Rkm10	Heidi's Reward	b 6 112 3 3	32	3nd	4nd	8	Boudrot D	2000	9.30
31Jly75 3Rkm5	Shoal Bay	b 9 114 9 5	7½	—	—	—	Baez R	2000	3.20

Shoal Bay, Broke down.

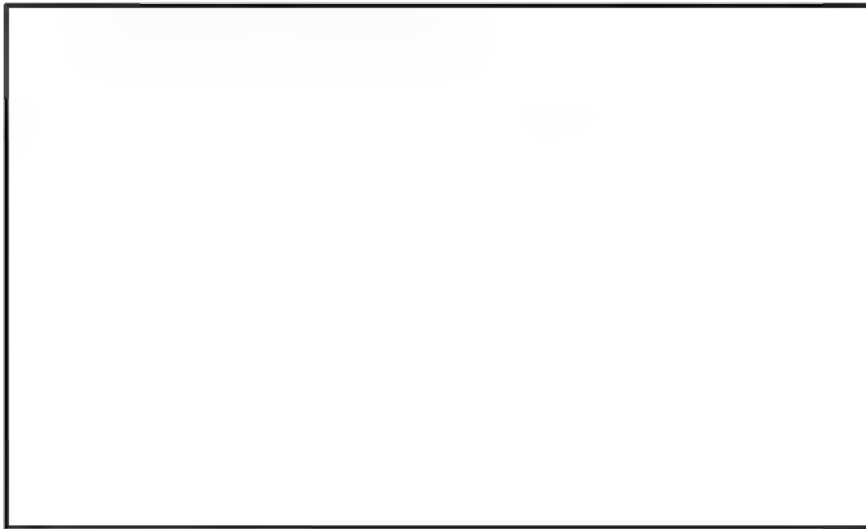
OFF AT 2:42, EDT. Start good, Won driving. Time, :22½, :46½, 1:12½ Track sloppy.

\$2 Mutuel Prices:	7-MANDRAKE ERNESTO	21.20	9.00	4.20
	1-NORTHERN SONG		5.80	3.40
	5-FLOTAGE			3.00
	\$2 PERFECTA 7-1 PAID \$115.40.			

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 10/21/77b6 - 2, 5, 6
b7C - 2, 5, 6

[redacted]
[redacted] was located and interviewed at his place of business, the Veteran of Foreign Wars Post #8546, 42 North Broadway, Salem, New Hampshire, telephone no. 603-893-1313. He was immediately advised of the interviewing agents' identities and asked whether or not he remembers during the summer of 1975 some individuals from Boston coming into the club showing a lot of money and discussing the races at Rockingham Park that day. Further, these individuals from Boston would have had people coming in and out of the club to see them. [redacted] stated he could not recollect anything specific, particularly about the date August 6, 1975, regarding the above individuals. [redacted] was then shown a photo spread containing the below-listed individuals and he picked out the pictures of [redacted] as individuals whom he has seen in the club and could offer no other specifics regarding their appearance at the club. The photo spread consists of the following photos:

b6 - 2, 6
b7C - 2, 6

Investigation on 10/19/77 at Salem, New Hampshire File # Boston 165-1004
by SA [redacted] and TJD/gm Date dictated 10/20/77

b6 - 1
b7C - 1

BS 183-298

POCONO DOWNS RACE COURSE

SECTION A
RACES FIXED



b6 - 5
b7C - 5

FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 5/1/78

Special Agent [] read a report prepared by the Bureau of Criminal Investigation, Pennsylvania State Police regarding an ongoing investigation they had during the year 1974 at the Pocono Downs Race Track in Pennsylvania. This investigation centered around [] and members of his so-called group by the Pennsylvania State Police.

b6 - 1, 2
b7C - 1, 2

On August 13, 1974, the following entry was made in this report:

b6 - 2, 3, 6
b7C - 2, 3, 6

[] told [] of the Pennsylvania State Police that on August 12, 1974 in the afternoon, [] up at the Pocono Downs Track and drove him to the Treadway Inn. [] was taken to Rooms 219 and 220 at the Treadway and was introduced to [] who was utilizing the name [] was then told by [] that his horse, namely, "Star of Trent" was entered in the ninth race, August 12, 1974, and that it was a live horse in this race. [] took this to mean that it had a good chance of winning the race. [] that if he wanted to [] he was to tell the jockey riding "Star of Trent" not to take any money from anyone and make sure that the horse was in the money, either first, second, or third in this race. [] observed a large stack of \$100 bills and \$50 bills on a table located in [] room. When [] was leaving the room, he observed jockey [] coming down the hall to enter rooms 219 and 220. [] had made it known to [] that he would not testify against members of [] group for fear of his life and that he, [] was leaving the Pocono Downs Race Track and taking his horses on August 15, 1974.

On August 14, 1974, the Pennsylvania State Police proceeded to the National Car Rental Agency, Avoca Airport, relative to their vehicle bearing Pennsylvania Registration 23597B, which was observed by members of the Pennsylvania State Police on August 12, 1974. The papers at National Car Rental revealed the following information:

Investigation on 4/25/78 at Lawrence, Massachusetts File # BS 165-1004

SA []/dn

4/28/78 b6 - 1
b7C - 1

by _____ Date dictated _____

LL

Credit Card Number [redacted] issued to [redacted] date of birth 1931, was leased out at 12:21 p.m., August 10, 1974. [redacted] had a residence listed as [redacted] operator's license [redacted]. The billing on this credit card was to go to the National Shawmut Bank, Boston, Massachusetts, representing Westinghouse. It has been ascertained by Special Agent [redacted] through investigation that the above mentioned credit card is an American Express Credit Card, issued in fact to [redacted] of the above stated address.

b6 - 1, 6
b7C - 1, 6

On August 17, 1974, [redacted] and [redacted] were observed at the Pocono Downs Race Track placing wagers during the racing period on that day. The three left the race track at the start of the eighth race, getting into a Chevrolet Sedan, Pennsylvania Registration [redacted] which was later observed by the State Police at the Treadway Inn. This vehicle is owned by the Hertz Rental Agency, Avoca Airport and assigned to [redacted] billing to [redacted]

b6 - 6
b7C - 6

FEDERAL BUREAU OF INVESTIGATION

1.Date of transcription 5/1/78

Special Agent [redacted] after reviewing a report from the Bureau of Criminal Investigation, Pennsylvania State Police, the following was noted for activities reported on August 12, 1974:

b6 - 1
b7C - 1

[redacted]
were at the Pocono Downs Race Course, which is also known as the Shamrock Race Course on August 12, 1974 and they observed an individual, later identified as [redacted] at the seller's windows during the fifth race purchasing a large amount of \$3.00 tickets. [redacted] purchased these tickets over a 12 minute period, put the tickets into a plastic bag and put them in his jacket. He then went to Box 10, which is located on the second floor of the race track in the grandstand and was joined by [redacted]

b6 - 2, 3, 6
b7C - 2, 3, 6

[redacted] Also at this box was a negro male, later identified as [redacted] It was the observation of the State Police at that time that [redacted] also appeared to be a runner placing bets on the quinella and exacta races at the \$10 windows. When the seller's windows opened for the ninth race, the big triple, [redacted] placed bets for a period of 16 minutes which was observed by the State Police and placed the large amount of tickets into a plastic bag and put them inside his coat. Upon completion of the races on that date, the State Police observed [redacted]

[redacted] enter a four door Chevrolet sedan, Pennsylvania registration [redacted] issued to VA Renting and Leasing, Incorporated, Gold Star Highway, Shenendoah, Pennsylvania. This car was rented from the National Rental Company, Avoca Airport, Avoca, Pennsylvania. The vehicle was later located at the Treadway Inn by the State Police.

Investigation on 4/25/78 at Lawrence, Massachusetts File # BS 165-1004

SA [redacted] /dn

4/28/78

b6 - 1
b7C - 1

by _____ Date dictated _____

231

FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 4/4/78

[redacted] was located and interviewed at Sacramento, California regarding a race fix scheme which took place on the east coast of the United States during 1974 and 1975. [redacted] on many prior occasions by Special Agent [redacted] regarding b6 - 1, 5 this race fix scheme, was asked questions regarding his b7C - 1, 5 activities at Pocono Downs Race Course, Wilkes Barre, b7D - 1 Pennsylvania. Utilizing copies from the daily racing form chart book, [redacted] was able to detail certain races which he fixed. One of these races occurred on August 18, 1974 which was the sixth race. Regarding this race, [redacted] advised b6 - 5, 6 as follows: b7C - 5, 6 b7D - 1

He stated that he fixed this race because the day before, August 17, 1974, owner/trainer [redacted] had come to [redacted] that he could "help" the horse "Cactus Jack R" win the sixth race on August 18, 1974 and this horse would pay a good price. Also the horse called "No Hurry" was in this race which was owned by Lansing Farms and trained [redacted] who was a part of this scheme, and who [redacted] had purchased a trainer's license for in the State of Pennsylvania.

Regarding the race itself, [redacted] advised that the following jockeys held their mounts and were paid varying b6 - 5 b7C - 5 b7D - 1 sums of money as described below, to insure that their horses did not finish first, second or third in this race:

[redacted] the horse called "James Stuart". [redacted] received approximately four or five hundred dollars at the Treadway [redacted] this horse.

[redacted] the horse called "No Hurry", who was trained [redacted] This horse is owned by [redacted] got his usual percentage for [redacted] horse.

[redacted] the horse called "Lyric Poet" b6 - 5, 6 b7C - 5, 6 b7D - 1 received approximately \$500 [redacted]

Investigation on 3/21/78 at Sacramento, California File # BS 165-1004
SA's [redacted] and TJD/dn Date dictated 3/28/78
by [redacted]

BS 165-1004

2.

[redacted] the horse called "Rollinindough". b6 - 5, 6
[redacted] received approximately \$400 [redacted] b7C - 5, 6
[redacted] this horse. b7D - 1

The final jockey [redacted] horse in this race
was [redacted] the horse called "Night Wind".
[redacted] received approximately \$500 [redacted]
house for [redacted] this horse. [redacted] this left b6 - 5, 6
him in the enviable position of having only two live horses b7C - 5, 6
remaining in this race, the first being "Cactus Jack R" and b7D - 1
the second being "Tudor Tell", the number five post position
horse in this race.

As in the previous races fixed at Pocono Downs, b6 - 2, 5, 6
[redacted] the same pattern with the wagers inside the b7C - 2, 5, 6
track, using the runners who had been used on previous b7D - 1
races, namely, [redacted]

[redacted] and some other local individuals.
Approximately \$4,000 was placed through the paramutual windows
and the illegal wagers placed outside the track by members of
the HOWARD WINTER gang were either four or five thousand dollars
across the board on the horse "Cactus Jack R". [redacted]
that there was an unusual incident which took place in this
race and that was that [redacted] gave a depressant
to the horse "No Hurry" because [redacted] stated
that he could not hold this horse because it was so superior
to all the other horses in this race. The stewards took a
spot check of the horse "No Hurry", meaning that they desired
that a urine sample be taken to determine whether or not
this horse had been administered any drugs.

Regarding this incident, [redacted] b6 - 5, 6
steward [redacted] at the Treadway and told b7C - 5, 6
him there would be a sample taken from "No Hurry" because of b7D - 1
the manner in which the horse had run the race. [redacted]

that he told [redacted] had injected this horse with a depressant and further asked [redacted] if he could cover for [redacted]. [redacted] told him that he could not cover for [redacted] had already approached the boy who controls the "spit box" for the purpose of bribing this individual so that the drug which he injected in the horse "No Hurry" would not be detected. Basically, [redacted] wanted the "spit box" [redacted] to switch "No Hurry's" urine sample with any other horse in the race. [redacted] would not do this and reportedly told several individuals that [redacted] had approached him. As a result of this, [redacted] was arrested and charged with the drugging of a horse. [redacted] stated that he paid for [redacted] lawyer through [redacted]. The lawyer's name was [redacted]. [redacted] originally defended [redacted] in this case. Also at this time [redacted] had an open case for bookmaking in the greater Wilkes Barre area. Regarding the check of the "spit box", [redacted] the individual who ordered this test may have been the third steward who was not being taken care of by the [redacted] race fixing group. [redacted] eventually beat this charge in court and was adjudicated not guilty after a trial.

FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 5/1/78

Special Agent [] read a report prepared by the Bureau of Criminal Investigation, Pennsylvania State Police, regarding an ongoing investigation they had in the year 1974 regarding fixed races at the Pocono Downs Race Track, Wilkes Barre, Pennsylvania.

b6 - 1
b7C - 1

The following entry was made for August 18, 1974:

[] and other officers connected with this investigation from the Pennsylvania State Police, observed [] at approximately 12:30 p.m., driving into the Treadway Inn in a Chevrolet bearing Pennsylvania registration []. This vehicle was then observed by members of the State Police at the beginning of the fourth race at Pocono Downs, parked outside the entrance to the club house. The following individuals were observed by the members of the State Police in Section 7 of the grandstand at Pocono Downs:

b6 - 3, 6
b7C - 3, 6b6 - 2, 6
b7C - 2, 6

Certain of these individuals were observed placing wagers on certain races, one of which was the sixth race on August 18, 1974. According to the report, the racing stewards at the track ordered a special test on the horse "No Hurry", which was the track favorite in the sixth race and finished sixth. This horse is owned by Lansing Farm and is [] as mentioned above.)

b6 - 6
b7C - 6

Investigation on 4/25/78 at Lawrence, Massachusetts File # BS 165-1004
by SA [] /dn Date dictated 4/28/78

b6 - 1
b7C - 1

J35.

August 22, 1974

SUBJECT: Urine #N6524

TO: All Stewards

FROM:

[Redacted] *CV*
Deputy Executive Secretary
State Horse Racing Commission

b6 - 6
b7C - 6

Dalare Report dated August 21, 1974 reported Urine #6524 as
positive for Phenothiazine type tranquilizer and/or a derivative
thereof:

Urine #6524

Tattoo No. - V19290

Sixth Race

Horse - NO HURRY

Owner - Lansing Farm

b6 - 6
b7C - 6

Date - August 18, 1974

Special - Called by the Stewards

JOE JAGGARD, B.S., DIRECTOR
 J. CRISMAN, D.D., V.M.D.
 TON W. RANSOM, D.S.
 JERRY M. WOLFE, P.A.
 GEORGE L. DAVIS, P.A.
 WALTER L. OROLD, M.S., Ph.D.

DALARE ASSOCIATES

BACTERIOLOGICAL
 AND CHEMICAL RESEARCH

MEMBER A.O.P.C.

PHILADELPHIA, PA.
 COLLINGSWOOD, N.J.



REPLY TO
 2300 LOCUST STREET, PHILADELPHIA, PA. 19103

August 21, 1974

Mr. Joseph L. Lecce, Chairman
 State Horse Racing Comm.
 2101 N. Front St.
 Harrisburg, Pa. 17110

Shanrock

Dear Mr. Lecce:

We have examined the sample of urine delivered by your representative and would report our findings as follows:

Date Collected	August 16, 1974	
Collection Supervised by	James Jones	
Sample Marked	Size Sample	Tests for Drugs
Urine #N6524	200 ml.	"Positive" for Phenothiazine type tranquilizer and/or a derivative thereof

Method of Identification - B Group
 UV Absorption - typical
 Gas Chromatography on OV 1 - typical
 Gas Chromatography on OV 17 - typical
 Fluorescence - typical

Very truly yours,

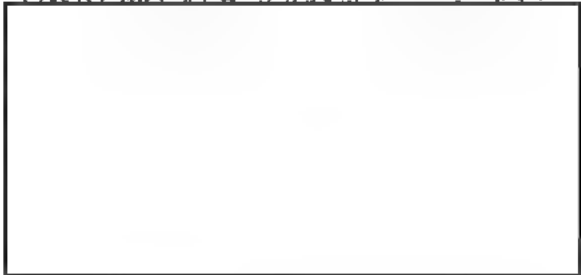
b6 - 6
 b7C - 6

DALARE ASSOCIATES, INC.

[Redacted Signature]

[Redacted Name] Chemist


 George Jaggard, Director

SAMPLE NUMBER	
DATE	8/17/74 N ^O 6524
HORSE	NO. HERRIN
AGE	10 COLOR. BR SEX G
FINISH	SP. G. RACE 6
TRACK	SHAMROCK
STATE	Pa
OWNER	LOUISINE FAI
	
TATOO NO. V19280	

b6 - 6
b7C - 6

FEDERAL BUREAU OF INVESTIGATION

1Date of transcription 5/1/78b6 - 1
b7C - 1

Special Agent [] read a report prepared by the Bureau of Criminal Investigation, Pennsylvania State Police, regarding an ongoing investigation they had in the year 1974 regarding fixed races at the Pocono Downs Race Track, Wilkes Barre, Pennsylvania.

The following entry was made for August 24, 1974:

b6 - 3, 6
b7C - 3, 6

At approximately 11:50 a.m., [] interviewed one [] of the "spit box" at the Pocono Downs Race Course. [] stated that on August 18, 1974, approximately an hour after the sixth race, [] the horse "No Hurry" came to the spit box and asked [] if there was anything they could do as he, [] had given his horse something. [] thought this was interesting because a special urine test had been ordered by the racing stewards on this particular horse and a positive test was eventually returned. [] told [] that he could not do anything and then [] subsequently reported this approach [] to appropriate track officials.

Investigation on 4/25/78 at Lawrence, Massachusetts File # BS 165-1004
SA [] /dn 4/28/78
by _____ Date dictated _____

b6 - 1
b7C - 1

FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 4/5/78

b6 - 1, 2, 5, 6

b7C - 1, 2, 5, 6

b7D - 1.

[redacted] was located and interviewed
at Sacramento, California by Special Agents [redacted]
and [redacted] had previously interviewed
[redacted] on several occasions regarding a [redacted]

[redacted]

3/22/78

Sacramento, California

BS 165-1004

Investigation on

File #

SA's

and

b6 - 1

b7C - 1

3/29/78

by

Date dictated

FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 5/1/78

Special Agent read a report prepared by the Bureau of Criminal Investigation, Pennsylvania State Police, regarding an ongoing investigation they had in the year 1974 regarding fixed races at the Pocono Downs Race Track, Wilkes Barre, Pennsylvania.

b6 - 1
b7C - 1

The following entry was made for August 19, 1974:

b6 - 2, 3, 6
b7C - 2, 3, 6
b7D - 1

Members of the Pennsylvania State Police observed

Investigation on 4/25/78 at Lawrence, Massachusetts File # BS 165-1004

SA dn

4/28/78

b6 - 1
b7C - 1

by _____ Date dictated _____

FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 4/5/78
 b6 - 1, 2, 5
 b7C - 1, 2, 5
 b7D - 1

[redacted] was located and interviewed at Sacramento, California by Special Agents [redacted] and [redacted] had been previously interviewed on many occasions by SA [redacted] in connection with a large scale horse race fixing scheme which he masterminded and which was financed by members of organized crime, specifically, HOWARD WINTER and his so-called gang based in Somerville, Massachusetts. On this particular date, [redacted] was being questioned regarding his [redacted]

[redacted]

The following jockeys were paid off in this race to insure that their horses did not finish in either the win, place or show positions:

b6 - 5, 6
 b7C - 5, 6
 b7D - 1

Investigation on 3/22/78 at Sacramento, California File # BS 165-1004
 by SA's [redacted] and TJD/dn Date dictated 3/29/78

b6 - 1
 b7C - 1

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243

FBI(20-cv-3269)-352

FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 5/1/78

b6 - 1

b7C - 1

Special Agent [redacted] read a report prepared by the Bureau of Criminal Investigation, Pennsylvania State Police, regarding an ongoing investigation they had in the year 1974 regarding fixed races at the Pocono Downs Race Track, Wilkes Barre, Pennsylvania.

The following entry was made for August 20, 1974: b6 - 2, 3
b7C - 2, 3

[redacted] appeared at the Howard Johnson Motor Lodge in the early morning hours and asked the manager for a half day rate, paying \$10 for Room 230. At the Pocono Race Track on August 20, 1974, [redacted] betting at the windows, at which time they won approximately \$14,000 after placing wagers totaling \$3800.

A physical surveillance conducted by the Pennsylvania State Police at the Howard Johnson's Motor Inn, Pittstown, Pennsylvania, Room 230, which was occupied [redacted]

b6 - 2

b7C - 2

[redacted] revealed the following activity:

[redacted] a vehicle bearing Pennsylvania registration [redacted] and accompanying him in the front seat of this car [redacted] was in the rear of this car. They all entered room 230. [redacted] then left the Howard Johnson's Motor Inn. At approximately 1:05 p.m., an individual identified as [redacted] entered Room 230 of the Howard Johnson's Motor Inn and subsequently left a short time thereafter. At approximately 1:40, [redacted] Mercedes Benz arrived and [redacted] was accompanied by [redacted] a jockey. Approximately eight minutes later, [redacted] left from room 230. Contained in this entry for August 20, 1974 was the fact that [redacted] had been suspended from assorted race tracks throughout the country in the past for alleged infractions at the race tracks, which proved detrimental to racing in general.

b6 - 2, 6

b7C - 2, 6

Investigation on 4/25/78 at Lawrence, Massachusetts File # BS 165-1004

SA [redacted] /dn

4/28/78 b6 - 1
b7C - 1

by _____ Date dictated _____

FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 5/1/78

Special Agent [] read a report prepared by the Bureau of Criminal Investigation, Pennsylvania State Police, regarding an ongoing investigation they had in the year 1974 regarding fixed races at the Pocono Downs Race Track, Wilkes Barre, Pennsylvania.

b6 - 1
b7C - 1

The following entry was made for August 23, 1974:

b6 - 2, 3
b7C - 2, 3

[] had observed an individual who was later identified [] using the alias [] departing from the Avoca Airport on August 21, 1974 with other members from the so-called Boston, Massachusetts area group. On August 23, 1974, track security at the Pocono Downs Race Track asked [] for identification. [] refused to show identification and was then asked to leave the Pocono Downs Race Track.

Investigation on 4/25/78 at Lawrence, Massachusetts File # BS 165-1004
SA []/dn 4/28/78
by _____ Date dictated _____

b6 - 1
b7C - 1

247

FEDERAL BUREAU OF INVESTIGATION

1.Date of transcription 5/1/78

b6 - 1

b7C - 1

Special Agent [] read a report prepared by the Bureau of Criminal Investigation, Pennsylvania State Police, regarding an ongoing investigation they had in the year 1974 regarding fixed races at the Pocono Downs Race Track, Wilkes Barre, Pennsylvania.

The following entry was made for August 24, 1974:

[] were at the Pocono Downs Race Track on August 24, 1974 and observed [] in the club house at the start of the second race. [] was asked to leave the track by track security. After the fourth race, [] was also requested to leave the track by track security. Just prior to the sixth race, [] date of birth [] was requested to leave the Pocono Downs Race Track by track security. Upon leaving the track, [] was observed by members of the state police walking to the highway and getting into a four door Chevrolet bearing Pennsylvania registration [], which was rented from the Hertz Car Rental Agency, Avoca Airport, by []. Also in this vehicle at this time was [].

b6 - 2, 3, 6
b7C - 2, 3, 6

Investigation on 4/25/78 at Lawrence, Massachusetts File # BS 165-1004

by SA [] /dn

4/28/78

b6 - 1

b7C - 1

by _____ Date dictated _____

344

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FBI(20-cv-3269)-358

FEDERAL BUREAU OF INVESTIGATION

1.

5/1/78

Date of transcription

Special Agent [redacted] read a report prepared by the Bureau of Criminal Investigation, Pennsylvania State Police, regarding an ongoing investigation they had in the year 1974 regarding fixed races at the Pocono Downs Race Track, Wilkes Barre, Pennsylvania.

b6 - 1
b7C - 1

The following entry was made for August 26, 1974:

[redacted] observed [redacted] board a flight from the Avoca Airport, Avoca, Pennsylvania to Boston, Massachusetts at approximately 12:10 p.m. [redacted] was observed in a rented vehicle and [redacted] proceeded back to the Treadway Inn. Observed with [redacted] on this date in the rented vehicle was Jockey [redacted]

b6 - 2, 3, 6
b7C - 2, 3, 6

Investigation on 4/25/78 at Lawrence, Massachusetts File # BS 165-1004
by SA [redacted] /dn Date dictated 4/28/78

b6 - 1
b7C - 1

251

FEDERAL BUREAU OF INVESTIGATION

1.Date of transcription 5/1/78

Special Agent [] read a report prepared by the Bureau of Criminal Investigation, Pennsylvania State Police, regarding an ongoing investigation they had in the year 1974 regarding fixed races at the Pocono Downs Race Track, Wilkes Barre, Pennsylvania. b6 - 1
b7C - 1

The following entry was made for September, 2, 1974:

[] met with Trooper [] at the Pocono Downs Race Track and at the start of the 11th race, observed [] in the parking lot in the company of [] [] were arrested by track security for trespassing. b6 - 2, 3, 6
b7C - 2, 3, 6

Investigation on 4/25/78 at Lawrence, Massachusetts File # BS 165-1004

SA []/dn

4/28/78

b6 - 1
b7C - 1

by _____ Date dictated _____

251

FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 4/5/78

[redacted] was located and interviewed at Sacramento, California by Special Agents [redacted] and [redacted] had been previously interviewed on many occasions by SA [redacted] in connection with a large scale horse race fixing scheme which he masterminded and which was financed by members of organized crime, specifically, HOWARD WINTER and his so-called gang based in Somerville, Massachusetts. On this particular date, [redacted] was being questioned regarding his race fixing activities at the

[redacted]

b6 - 1, 5
b7C - 1, 5
b7D - 1

The following jockeys were [redacted]

[redacted]

[redacted]

Investigation on 3/22/78 at Sacramento, California File # BS 165-1066 - 2, 5, 6
SA's [redacted] and [redacted] b6 - 1
by [redacted] b7C - 2, 5, 6
Date dictated 3/29/78 b7D - 1

152

FEDERAL BUREAU OF INVESTIGATION

1.Date of transcription 5/1/78

b6 - 1, 6

b7C - 1, 6

Special Agent [redacted] read a report prepared by the Bureau of Criminal Investigation, Pennsylvania State Police, regarding an ongoing investigation they had in the year 1974 regarding fixed races at the Pocono Downs Race Track, Wilkes Barre, Pennsylvania:

The following entry was made for September 10, 1974:

Sergeant [redacted]
Pennsylvania State Police had occasion to interview [redacted]
[redacted] relative to a [redacted]
which he received [redacted] told the
interviewing officers that the [redacted]
of [redacted]

b6 - 2, 3, 5, 6

b7C - 2, 3, 5, 6

Investigation on 4/25/78 at Lawrence, Massachusetts File # BS 165-1004
by SA [redacted] /dn 4/28/78 Date dictated _____

b6 - 1

b7C - 1

FEDERAL BUREAU OF INVESTIGATION

L

Date of transcription 4/5/78

[redacted] was located and interviewed at Sacramento, California by Special Agents [redacted]

[redacted] regarding his knowledge and personal participation in a large scale race fixing scheme during the years 1974 and 1975, which scheme was allegedly financed by HOWARD WINTER and other members of his gang, who shared in the profits of this race fix scheme. In particular, on this date, [redacted] was asked by the interviewing agents regarding a specific incident which took

b6 - 1, 3, 5
b7C - 1, 3, 5
b7D - 1

[redacted] Regarding this particular incident, agents became aware of a situation through the Pennsylvania State Police whereby an individual identified as [redacted] airport prior to [redacted] departing for the Boston, Massachusetts area. Also at this time, [redacted] was observed [redacted] This particular incident was observed by a member of the Pennsylvania State Police, namely Corporal [redacted]

b6 - 2, 5, 6
b7C - 2, 5, 6
b7D - 1

Regarding this specific incident, [redacted] advised as follows:

[Large redacted area]

Investigation on 3/22/78 at Sacramento, California File # BS 165-1004

SA's [redacted] and TJD/dn Date dictated 3/29/78

b6 - 1
b7C - 1

FEDERAL BUREAU OF INVESTIGATION

1Date of transcription 5/1/78

Special Agent [redacted] read a report prepared by the Bureau of Criminal Investigation, Pennsylvania State Police, regarding an ongoing investigation they had in the year 1974 regarding fixed races at the Pocono Downs Race Track, Wilkes Barre, Pennsylvania.

b6 - 1, 6
b7C - 1, 6

The following entry was made for September 3, 1974:

Corporal [redacted] had occasion to be at the [redacted] and [redacted] boarding a plane to Boston, Massachusetts from [redacted] at approximately 6:50 p.m. Just prior to the departure, [redacted]

b6 - 2, 3, 6
b7C - 2, 3, 6

Investigation on 4/25/78 at Lawrence, Massachusetts File # BS 165-1004

SA [redacted] /dn

4/28/78

by _____ Date dictated _____

b6
b7C
b7D

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FBI(20-cv-3269)-366

· BS 183-298

SECTION B

RENTAL CAR AGREEMENTS
AND RELATED PAPERS

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/19/77

1
[redacted] Hertz Rent-A-Car, Wilkes-Barre/
Scranton Airport, Avoca, Pa., made available copies of the
following car rental agreements which are attached:

b6 - 5
b7C - 5

Rental agreement [redacted] which indicated that
on August 17, 1974, a Chevrolet automobile bearing Penn-
sylvania license [redacted] was rented to [redacted] who gave
his address as [redacted]

b6 - 2, 6
b7C - 2, 6

The rental of this vehicle was to be paid by
[redacted]

Rental agreement [redacted] dated August 23, 1974,
for a Chevelle automobile bearing Pennsylvania license [redacted]
which was rented to [redacted] who gave his address as [redacted]
[redacted] This rental
was to be paid by the Defensive Products, 12 Justin Avenue,
illegible city, Massachusetts.

b6 - 2, 6
b7C - 2, 6

Rental agreement [redacted] which was dated
September 6, 1974 for a Chevrolet Monte Carlo, bearing Penn-
sylvania license [redacted], and which was rented to a [redacted]
[redacted] who gave his address as [redacted]
[redacted] and which was also signed by [redacted]

BS 165-1004 sub 6-4

Interviewed on 9/9/77 at Avoca, Pa. File # PHILADELPHIA 166-1430 (RA)

by SA [redacted] jab Date dictated 9/14/77

b6 - 1
b7C - 1

BS 183-298

On 10/17/77, [redacted] National Car Rental, Wilkes-Barre/Scranton Airport, Avoca, Pennsylvania, advised Special Agent [redacted] that a search of the company's rental agreements was unable to locate the rental of a vehicle bearing Pennsylvania license [redacted] in August, 1974. [redacted] said that with regard to credit card [redacted] being used to rent a vehicle on August 10, 1974, which card was issued to [redacted]

[redacted] that it was most likely this card was an American Express Card and that the last two letters on this card number should be [redacted]. He said the possibility existed that this transaction could be on microfilm at American Express headquarters. He said the voucher for this rental would contain the rental agreement number.

FEDERAL BUREAU OF INVESTIGATION

11/25/77

Date of transcription

[redacted]
[redacted] was served a subpoena to appear
in the United States District Court for the [redacted]
[redacted]
[redacted]

[redacted] to testify before the Grand Jury and, at that
time, have in his possession any and all [redacted]
[redacted]

b3 - 1
b6 - 1, 5
b7C - 1, 5

The subpoena was served by Special Agent [redacted]
Federal Bureau of Investigation, New York, New York, at
9:26 AM on November 25, 1977.

PS 11-25-77 - SUB - 13

Interviewed on 11/25/77 at New York, New York File # NY 165-

by [redacted] ncg Date dictated 11/25/77

b6 - 1
b7C - 1

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JLH

FBI(20-cv-3269)-373

BS 183-298

b3 - 1
b6 - 6
b7C - 6

A review of the records of

BS 183-298

SECTION C

HOTEL REGISTRATIONS

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/21/77b6 - 5
b7C - 5

1
[redacted] Treadway Inn, Route 315, Plains Township, Pa., was contacted after which he advised that there are no registration records available for the year 1974.

[redacted] said that he recalled an individual by the name of [redacted] who stayed at the Inn in 1974. [redacted] was also accompanied by a black male whose name was, first name unrecalled [redacted] who was a horse trainer for [redacted] stayed in a cabin adjacent to the Inn and also in a room at the Inn. [redacted] said he believes they left owing a large bill. [redacted] was recalled by [redacted] as being a smooth talker.

b6 - 5, 6
b7C - 5, 6

[redacted] described [redacted] as being a white male in his early 30s, approximately 5'10" tall, 170 pounds. He said that he might recall [redacted] if he saw him again in person.

b6 - 5, 6
b7C - 5, 6

Interviewed on 9/13/77 at Plains Township, Pa. File # PHILADELPHIA 166-1430 (RA)
by SA [redacted] Date dictated 9/16/77

b6 - 1
b7C - 1

167

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FBI(20-cv-3269)-376

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/19/77

[redacted] Howard Johnson's Motor Lodge, Route 315, Pittston Township, Pa., made available a copy of a registration card [redacted] for an individual who gave his name as [redacted] [redacted] representing American Can, Boston, Massachusetts. The card further indicated that the individual had a car bearing Pennsylvania license [redacted] which was not further described and the individual was assigned [redacted]. The card further indicated that the individual arrived on August 19, 1974 and was to depart on August 20, 1974 and the number of guests was listed as one.

b6 - 2, 5
b7C - 2, 5

A copy of this registration card is attached hereto (it is to be noted that this registration card in the name of [redacted] came to light as a result of an investigation conducted by the Pennsylvania State Police at the Howard Johnson Motor Lodge on August 19, 1974, wherein it was determined that [redacted] registered in the name of [redacted]).

b6 - 2, 6
b7C - 2, 6

ES: 165-1004 sub 6-9

Interviewed on 9/9/77 at Pittston, Pa. File # PHILADELPHIA 166-1430 (RA)by SA [redacted] jab Date dictated 9/14/77b6 - 1
b7C - 1

alt

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FBI(20-cv-3269)-377

HOWARD JOHNSON'S
SCB-W-3 PA.

'74 AUG 19 AM 10:41

BS 183-298

On September 13, 1977, [REDACTED]
Master Host Motel, Wilkes-Barre, Pennsylvania, advised
SA [REDACTED] that there are no registration
cards available for the year 1974.

b6 - 1, 5
b7C - 1, 5

BS 183-298

SECTION D

AIRLINE RECORDS

BS 183-298

A review of records for [redacted] American Express Company card reveals the following: b6 b7c

On August 9, 1974, the card of [redacted] was used at American Airlines in Boston, Massachusetts and was charged \$471.24, for transportation between Boston and Wilkes-Barre, Pennsylvania. These records further indicate that on August 14, 1974 this credit card was again used at Wilkes Barre-Scranton, Pennsylvania for air travel between Wilkes Barre and Boston and was charged \$38.65. b6 b7c

On September 9, 1977, an inquiry was made at Allegheny Airlines, Wilkes-Barre/Scranton Airport, Avoca, Pennsylvania, at which time it was determined that there were no manifests available showing travel from Avoca Airport to Boston, Massachusetts. The possibility existed that the record of individuals who might have traveled in 1974 could be available at the Allegheny Airlines Computer Center located at National Airport, Washington, D. C.

BS 183-298

SECTION E

HOSPITAL RECORDS

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/1/77b3 - 1
b6 - 5
b7C - 5

1
[redacted]
[redacted]
[redacted], was contacted and served with a subpoena
issued by the U.S. District Court for the [redacted]
[redacted] which directed her to testify before the Fed-
eral Grand Jury at [redacted]
[redacted]

[redacted] made available certified copies of the
aforementioned records.

165-1004 sub 6-12

Interviewed on 10/28/77 Wilkes-Barre, Pa. File # PHILADELPHIA 366-1430 (RA)
by SA [redacted] /jab Date dictated 11/1/77 b6 - 1
b7C - 1

275.

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FBI(20-cv-3269)-384

BS 183-298

SECTION F

MISCELLANEOUS CRIMINAL INFORMATION

263.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 10/19/77

District Magistrate JOSEPH VERESPY, Plains, Pa., was contacted and made aware of the nature of the investigation.

Mr. VERESPY said that his records indicate that a non-traffic citation [redacted] was issued to [redacted]

on September 2, 1974 at the hour of 1905 at Pocono Downs Racetrack, Plains Township, Pa. The charge was criminal trespass. The violation was of the Pennsylvania Crime Code, Section 3503. Receipt of the citation was acknowledged by the signature of [redacted] on September 2, 1974. It was noted that Officers [redacted] investigated this incident. [redacted] was described as a white male, date of birth [redacted]. VERESPY noted that this citation was discharged on December 5, 1974 since [redacted] could not be located and was out of state.

b6 - 2, 3
b7C - 2, 3

Mr. VERESPY further stated that his records indicated that a non-traffic citation [redacted] was issued to [redacted]

This citation was issued at the hour of 1905 on September 2, 1974 at Pocono Downs Racetrack, Plains, Pa. The charge was criminal trespass. He was charged with a violation of the Pennsylvania Crime Code, Section 3503. He acknowledged receipt of the citation by signing his signature on September 2, 1974. He was described as a white male, date of birth [redacted]. This incident was also investigated by Officers [redacted] and [redacted] of the Plains Police Department. The disposition of this matter was a \$25.00 fine, \$5.00 costs, paid on October 3, 1974.

b6 - 3, 6
b7C - 3, 6

BS 1165-1004 sub 6-5

Interviewed on 10/13/77 at Plains, Pa. File # PHILADELPHIA 166-1430 (RA)
by SAs [redacted] Date dictated 10/18/77

b6 - 1
b7C - 1

BS 183-298

SECTION G
TOLL RECORDS

261

FBI(20-cv-3269)-396

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 10/19/77

Sergeant [redacted] Plains Township Police Department, Plains, Pa., was contacted and made aware of the nature of the investigation.

b6 - 3
b7C - 3

[redacted] said that he was involved to a degree with representatives of the Pennsylvania State Police regarding an investigation of horse race fixing at Pocono Downs Racetrack, Plains Township, Pa., in the summer of 1974. He said that he recalled there were several individuals at the track from Massachusetts, among them being an individual he recalled as [redacted]

b6 - 2, 3
b7C - 2, 3

[redacted] said that [redacted] and the others had been staying at the Treadway Inn, Plains Township, Pa., and on August 30, 1974, he obtained a copy of the Treadway Inn record of telephone traffic for room [redacted] on August 29, 1974. This record indicated the following calls made from room 27 to these numbers:

b6 - 2, 3
b7C - 2, 3

501-664-0926; 814-536-4176, which [redacted] determined was subscribed to by the Rodoljub Club, 318 Chestnut Street, Johnstown, Pa.; 501-374-3331, which was subscribed to by the Sheraton Motor Inn, 601 East Seventh Street, Little Rock, Arkansas; [redacted] (previously mentioned); [redacted] subscribed to be [redacted]

b6 - 3, 6
b7C - 3, 6

[redacted] said that his notes indicate that he also determined that the following numbers were called by [redacted] with the last four digits only being recorded and they are as follows:

b6 - 2, 3, 6
b7C - 2, 3, 6

BS 165-1004 sub 6-6

Interviewed on 10/13/77 at Plains, Pa.

PHILADELPHIA

File # 166-1430 (RA)

SAs [redacted]

ab

b6 - 1

by [redacted]

Date dictated 10/18/77

b7C - 1

2

[redacted] also made available a copy of long distance telephone toll call charges made from the Master Host Inn, Wilkes-Barre, Pa. from rooms [redacted] which were registered to [redacted] on September 9 and September 10, 1974. These calls were as follows:

b6 - 2, 3
b7C - 2, 3

September 9, 1974, [redacted] telephone called	
[redacted] September 9, 1974, number called	b6 - 2, 6
[redacted] September 9, 1974, number called	b7C - 2, 6
[redacted] September 9, 1974, number called	
[redacted] September 8, 1974, [redacted] telephone	
called [redacted] September 10, 1974, number	
called [redacted] September 10, 1974, number	
called [redacted] September 10, 1974, number	
called [redacted] September 10, 1974, number	
called [redacted] September 10, 1974, number	
called [redacted] September 10, 1974, number	
called [redacted] September 10, 1974, number	
called [redacted] September 10, 1974, number	
called [redacted] September 9, 1974, number	
called [redacted] September 9, 1974, number	
called [redacted] September 9, 1974, number	
called [redacted] September 9, 1974, number	
called [redacted] September 9, 1974, number	
called [redacted] September 9, 1974, number	

[redacted] said that the Department records indicate that on September 10, 1974, Patrolman [redacted] investigated an alleged assault upon [redacted]

b6 - 3, 6
b7C - 3, 6

[redacted] The records indicate that [redacted] stated he was in the [redacted] Pa., when a man approached him and asked him to go outside which he did. When outside, this unknown male asked him what happened the other night. [redacted] did not know what he was talking about, then he was struck by this male and three other men who were standing nearby. The records further indicate that the incident was reported to the Department by Detective [redacted] Pocono Downs and a statement given at Wilkes-Barre General Hospital. [redacted] said that on September 11, 1974, he took a signed statement from [redacted] regarding the assault which allegedly occurred at the Jockey Club. This statement is on file at the Police Department.

289

[redacted] said that his records contained an indication that the ninth race on Monday, August 26, 1974, was a big race that was fixed. This was a big triple in which the horses came in six, three, four, and paid \$1,431.30. The number six horse was Bill Skipper, [redacted] and which paid \$15.20 to win, \$7.80 to place, and \$7.00 to show. The second horse was number three, Cindy's Prize, [redacted], which paid \$8.00 to place, and \$4.00 to show. The third horse was number four, Rosie Mike, which [redacted] and paid \$19.40 to show. [redacted] said that he also learned that the individuals involved in fixing these races allegedly made telephone calls to bookies in other states.

b6 - 3, 6
b7C - 3, 6

BS 183-298

NEW JERSEY

ATLANTIC CITY RACE COURSE
GARDEN STATE RACE TRACK

BS 183-298

As of this writing, Special Agents of the Boston ^{b6 - 1, 2, 3}
Division of the Federal Bureau of Investigation have been ^{b7c - 1, 2, 3}
in constant contact with Detective Sergeant [redacted]
who is handling the [redacted] case in the State of New Jersey.
Special Agents [redacted] will travel
to Trenton, New Jersey during August, 1978 to completely
review files in possession of the New Jersey State Police
relative to the race fixing scheme which took place both
at Atlantic City Race Course and Garden State Race Track
during 1974 and 1975. According to Detective Sergeant [redacted]
[redacted] has been extensively debriefed by the New Jersey
State Police regarding the fixed races and several people
to date have been convicted of Sports Bribery charges in
connection with this scheme and others are awaiting court
action, having been indicted for Sports Bribery.

ES 183-298

SECTION A

TOLL RECORDS

BS 183-298

The following tolls were obtained from Detective Sergeant [redacted] New Jersey State Police and a review of these toll calls by Special Agent [redacted] reveals the following traffic to Massachusetts to persons of interest or actual participants of the race fix scheme: b6 - 1, 3
b7C - 1, 3

Calls made from the Country Squire Motel, Cherry Hill, New Jersey in early February, 1975:

617-284-9448 Medes Turf Lounge, 85 Bennington Street, Revere, MA

617-354-9590 Tremont Cafe, Inc., 1176 Cambridge Street, Cambridge, [redacted] b6 - 2, 6
b7C - 2, 6

617-628-6111 Motorama Auto Sales, 12 Marshall Street, Somerville, [redacted]

Calls made from the Rickshaw Inn, Cherry Hill, New Jersey on February 21 and 22, 1975:

617-284-9448 Medes Turf Lounge, 85 Bennington Street, Revere, MA

617-354-9590 Tremont Cafe, Inc., 1176 Cambridge Street, Cambridge, [redacted]

617-628-6111 Motorama Auto Sales, 12 Marshall Street, Somerville, [redacted]

b6 - 6
b7C - 6

BS 183-298

b6 - 2, 6
b7C - 2, 6

Calls made from home of [redacted]
telephone [redacted] from May 17 - June 9, 1975:

[redacted]
617-284-9448 Medes Turf Lounge, 85 Bennington Street, Revere, MA
702-739-2222 Tropicana Motel, Las Vegas, Nevada

Calls between May 31 - June 15, 1975 from phone

[redacted]
b6 - 2, 6
b7C - 2, 6

[redacted]
702-739-2222 Tropicana Motel, Las Vegas, Nevada

Calls made from the Flamingo Motel, Atlantic City,
New Jersey between June 23 and July 18, 1975:

617-227-9710 National Lobster Co., Inc., 90 Commercial Wharf, Boston

[redacted]
617-284-9572 Medes Log Cabin, 85 Bennington Street, Revere, MA
617-289-4020 Nationwide Auto Sales, 275 Lee Burbank Hwy, Revere, MA

[redacted]
617-426-7179 Thomas Corey, Inc., 585 Columbus Avenue, Boston, MA
617-623-9838 Towne Lynne House, 1336 Broadway, Somerville, MA
617-623-9838 " " " " "

[REDACTED]
617-628-6110 Motorama Auto Sales, Inc., 12 Marshall Street, Somervi.
617-628-6111 " " " " "

[REDACTED]
702-734-1122 Las Vegas Country Club, Las Vegas, Nevada
702-734-1126 " " " "
702-734-4110 Dunes Motel, Las Vegas, Nevada
702-735-4500 Jackie's N.Y. Deli, 953 E. Sahara, Las Vegas, Nevada
702-736-4878 Churchill Downs Sports Book, Las Vegas, Nevada
702-739-2222 Tropicana Motel and Casino, Las Vegas, Nevada .

Calls from the home of [REDACTED]

b6 - 2, 6
b7C - 2, 6

[REDACTED] during August, September and early October, 1975:

617-284-9448 Medes Turf Lounge, 85 Bennington Street, Revere, MA
[REDACTED]

702-739-2222 Tropicana Motel and Casino, Las Vegas, Nevada

BS 183-298

LAS VEGAS

SECTION A
INVESTIGATION CONDUCTED AT LAS VEGAS,
NEVADA

FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 4/6/78

[redacted] was located and interviewed at his place of employment, The Riviera Hotel and Casino, Las Vegas, Nevada. [redacted] was immediately advised of the identity of interviewing agents as well as the fact that the interview concerned an investigation being conducted by the Federal Bureau of Investigation into violations of the Sports Bribery Statute, in particular, race fixing allegations.

b6 - 5
b7C - 5

[redacted] was advised that one [redacted]

b6 - 2, 5
b7C - 2, 5
b7D - 1

HOWARD WINTER, [redacted]

[redacted] and JAMES BULGER.

At this point in the interview [redacted] was given a subpoena to appear before the Federal Grand Jury on [redacted]

b3 - 1
b6 - 5
b7C - 5

The [redacted] interview was then terminated.

Investigation on 3/24/78 at Las Vegas, Nevada File # BS 165-1004

by SA's [redacted] and TJD/dn Date dictated 3/30/78

b6 - 1
b7C - 1

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248

FBI(20-cv-3269)-407

FEDERAL BUREAU OF INVESTIGATION

1.

Date of transcription 4/6/78

[redacted] was located and interviewed at the Alladin Hotel and Casino, Las Vegas, Nevada and immediately advised of the identities of interviewing agents as well as the fact that the interview concerned a sports bribery investigation concerned with race fixing, primarily on the east coast of the United States.

b6 - 5
b7C - 5

[redacted] was shown a photo spread and from the photo spread identified the following individuals as being either known by him or at least individuals who he has seen in Las Vegas at one time or another in connection with his official employment out there. The individuals are as follows:

b6 - 5
b7C - 5

[redacted]
HOWARD WINTER

b6 - 5
b7C - 5
b7D - 1

[redacted] was advised that [redacted]
[redacted]

Investigation on 3/23/78 at Las Vegas, Nevada File # BS 165-1004by SA's [redacted] and [redacted] Date dictated 3/30/78b6 - 1
b7C - 1

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249.

FBI(20-cv-3269)-408

BS 165-1004

2

b6 - 2, 5
b7C - 2, 5
b7D - 1

[redacted]
[redacted] stated that he had personal contact with
[redacted] a few years ago, exact date unknown, when [redacted]
[redacted]

At this point during the interview, [redacted]
was given a subpoena by Special Agent [redacted] ordering him
to appear before the Federal Grand Jury at [redacted]
[redacted]

At this point
the interview was terminated.

b3 - 1
b6 - 1, 2
b7C - 1, 2

FEDERAL BUREAU OF INVESTIGATION

1.Date of transcription 4/6/78

[redacted] was located and interviewed at his place of business, [redacted] Nevada. He was immediately advised of the identities of interviewing agents as well as the fact the interview concerned an investigation relating to sports bribery, in particular race fixing on the east coast of the United States.

b6 - 5
b7C - 5b3 - 1
b6 - 2, 5
b7C - 2, 5
b7D - 1

[redacted] was also advised that one [redacted]

[redacted]

At this point in the interview, [redacted] was presented with a subpoena to appear before the Federal Grand Jury at [redacted]

At this point the interview was terminated.

Investigation on 3/23/78 at Las Vegas, Nevada File # BS 165-1004
by SA's [redacted] and [redacted] Date dictated 3/30/78

b6 - 1
b7C - 1

FEDERAL BUREAU OF INVESTIGATION

4Date of transcription 4/6/78

ROBERT L. MARTIN, 19 South 15th Street, Las Vegas, Nevada was located and interviewed at his residence. MARTIN was immediately advised of the identities of interviewing agents as well as the fact that the interview concerned an investigation into violations of the sports bribery statute, specifically, race fixing allegations.

MARTIN was told that [REDACTED]

b6 - 2
b7C - 2

[REDACTED] who was the mastermind of the race fixing scheme. He was further advised that the scheme was financed by members of organized crime in the greater Boston area as well as other states. Regarding [REDACTED] participation in the scheme, he was told that [REDACTED] that he, MARTIN, "moved" some money in the form of illegal wagers through his contacts in Las Vegas as well as other parts of the country on horse races which were fixed by [REDACTED] MARTIN stated that he never talked to [REDACTED] or anyone else in connection with this scheme nor did he ever move any horses or illegal money on a horse race. MARTIN further advised that he is very interested in sports betting, however, he does not have any interest in horse racing. MARTIN admitted to knowing one HOWARD WINTER from Boston, Massachusetts, however, he would not elaborate on his association with Mr. WINTER.

b3 - 1

Investigation on 3/23/78 at Las Vegas, Nevada File # BS 165-1004
by SA [REDACTED] and SA [REDACTED] Date dictated 3/30/78

b6 - 1
b7C - 1

BS 183-298

INTERVIEWS

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/1/77

[redacted]
[redacted] was located and interviewed at the Racing Stewards Office at Rockingham Park. [redacted] advised he is [redacted] at Rockingham, a position which he has held since 1969. He also indicated he was [redacted] the Suffolk Downs Race Track in East Boston, Massachusetts. b6 - 5
b7C - 5

[redacted] was questioned as to his recall of an incident which occurred on July 25, 1975 at the Rockingham Race Track in which a horse by the name of Amaspy was brought up from New Jersey to run in the second race at Rockingham Park. In order to refresh his recollection, [redacted] was shown a xerox copy from the daily form chart book which gives the statistics for the race including all the horses that ran, in what position they finish and the monies the first three horses paid. b6 - 5
b7C - 5

[redacted] stated that he could not recall anything unusual about the race and stated that he would attempt to search his personal records which he maintains regarding any unusual circumstances or disciplinary actions taken by racing stewards in connection with races. b6 - 5
b7C - 5

[redacted] in the presence of Agents attempted to locate the records which were in black binders for the race in question. He stated that it was unusual that he could find all of his records with the exception of this particular meet at Rockingham. [redacted] advised that he would look further and if he located these records, he would call interviewing Agents. b6 - 5
b7C - 5

Investigation on 8/25/77 at Salem, New Hampshire File # BS 165-1004

SAS [redacted]

TJD:mm

Date dictated 8/29/77

b6 - 1

b7C - 1

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/1/77

[redacted]
[redacted] was located at the Rockingham Park Race Track,
Salem, New Hampshire.

b3 - 1

b6 - 1, 5

b7C - 1, 5

SA [redacted] presented him with a subpoena ordering
him to appear before the Federal Grand Jury [redacted]

[redacted]

Interviewed on 8/31/77 at Salem, New Hampshire File # Boston 165-1004 Sub:

SA [redacted]

d

b6 - 1

SA [redacted]

- TJD/gm

b7C - 1

by

Date dictated 9/1/77

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35.

FBI(20-cv-3269)-414

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/1/77

[redacted]
[redacted] was located and interviewed at the Racing Steward room at Rockingham Race Track, Salem, New Hampshire. Mr. [redacted] advised he had been a steward at different race tracks for some 25 years having been a steward at the Rockingham Race Track for the last six to seven years.

b6 - 5
b7C - 5

[redacted] was questioned as to his recall of an incident which occurred on July 25, 1975 at the Rockingham Race Track in which a horse by the name of Amaspy was brought up from New Jersey to run in the second race at Rockingham Park. In order to refresh his recollection, [redacted] was shown a xerox copy from the daily form chart book which gives the statistics for the race including all the horses that ran, in what position they finished and the monies the first three horses paid.

b6 - 5
b7C - 5

[redacted] advised that he recalls this race very vividly and remembers that the racing stewards called in [redacted] and a local trainer at the Rockingham Race Park, namely [redacted] in connection with this race. He stated that the stewards instructed both [redacted] to immediately remove the horse Amaspy from the race track just after the completion of the race on July 25, 1975. Also, the stewards banned Amaspy from ever running again at Rockingham Race Track as well as banning [redacted] from the Rockingham Race Park.

b6 - 5, 6
b7C - 5, 6

When [redacted] was called in, the stewards asked him regarding his race fixing activities in the state of New Jersey, in particular with one [redacted] [redacted] denied all allegations that were put to him by the stewards.

b6 - 2, 5, 6
b7C - 2, 5, 6

[redacted] told the stewards that he was merely stabling the horse for [redacted] whom he had just

Investigation on 8/25/77 at Salem, New Hampshire File # BS 165-1004
by SAS [redacted] and TJD:mm Date dictated 8/29/77

b6 - 1
b7C - 1

BS 165-1004

recently met through a third individual, the identity of whom was unknown to [redacted] at this time.

b6 - 5, 6

b7C - 5, 6

[redacted] stated that the reason they called in [redacted] was that the stewards had a report from certain mutual clerks selling data on this particular race that there was a serious amount of money being wagered on Amaspy in the second race on the date in question. After checking the horse's most recent races, the stewards became suspicious since the horse had run very poorly in his prior outings.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/1/77

[redacted] was located and interviewed at the Racing Stewards room, Rockingham Race Track, Salem, New Hampshire and he advised that he has been a steward for approximately six years, including the last three years at Rockingham Race Track. He also stated he was [redacted] at the following two race tracks: Oakland Park, Hot Springs, Arkansas and Latonia Race Course, Florence, Kentucky.

b6 - 5
b7C - 5

[redacted] was questioned as to his recall of an incident which occurred on July 25, 1975 at the Rockingham Race Track in which a horse by the name of Amaspy was brought up from New Jersey to run in the second race at Rockingham Park. In order to refresh his recollection, [redacted] was shown a xerox copy from the daily form chart book which gives the statistics for the race including all the horses that ran, in what position they finished and the monies the first three horses paid.

b6 - 5
b7C - 5

[redacted] stated that he remembered this race very well and that he recalled that the stewards called in the listed owner of the horse, [redacted] and a trainer at the Rockingham Park, namely [redacted]. They also banned the horse Amaspy from ever running at the Rockingham Park Race Track. Also, the steward told [redacted] that he was banned from the Rockingham Race Track.

b6 - 5, 6
b7C - 5, 6

[redacted] stated that the reason the above actions were taken was that the horse was shipped up from Atlantic City, New Jersey and after reviewing the form book for the horses prior to the race on July 25, 1975, the steward realized that this horse had run several bad races in his most recent outings prior to July 25, 1975. They also noted that at race time, the horse was going off at two to one odds. This indicated to the steward that something was not right in the

b6 - 5
b7C - 5

Investigation on 8/25/77 at Salem, New Hampshire File # BS 165-1004-511

SAS

TJD:mmm

Date dictated 8/29/77

b6 - 1
b7C - 1

BS 165-1004

race and they determined that [redacted] was involved in race fixing in the state of New Jersey and accordingly, b6 - 5, 6
took the action as noted above. [redacted] stated b7c - 5, 6
that he recalls watching this race very closely and it
is his recollection that the horse ran a very poor
race finishing out of the money.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/13/77

[redacted]
[redacted] was located and interviewed at her residence. Mrs. [redacted] was immediately advised of the identities of the interviewing Agents and the fact that the interview concerned race fixing activities in the states of Massachusetts, Rhode Island, New Hampshire, New Jersey, Pennsylvania and others. Specifically, Mrs. [redacted] was asked regarding an incident which allegedly took place on October 16, 1974 in the city of Somerville, Massachusetts in which she was present when her husband [redacted] who is employed as a race horse jockey was beaten up by at least two individuals. The alleged incident took place at Danny's Bar located in Somerville. Mrs. [redacted] stated that the incident mentioned above did not occur nor would she care to discuss the incident with interviewing Agents.

b6 - 5
b7C - 5

[redacted] stated that in 1974, she was her husband's "jockey agent". Basically, the duties of a jockey agent involve setting up mounts for the jockey with different trainers and owners.

b6 - 5
b7C - 5

[redacted] stated that she does not personally know any of the below mentioned individuals:

b6 - 2, 5, 6
b7C - 2, 5, 6

From observation and interview, [redacted] is described as follows:

Race:	White
Sex:	Female
Date of Birth:	[redacted]
Place of Birth:	Rochester, New York
Occupation:	Housewife

Investigation on 9/8/77 at Windham, New Hampshire File # BS 165-1004 Sub 11

SAS [redacted]

TJD:mm

Date dictated 9/12/77b6 - 1
b7C - 1

BS 165-1004

Hair:
Eyes:
Maiden Name:
Husband:

Brown
Brown

b6 - 5, 6
b7C - 5, 6

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
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PAGE 1 OF 2

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ATTENTION: SUPERVISOR [REDACTED]

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12 HOWARD T. WINTER; AKA; ET AL.; RICO.

RE BOSTON TELCAL TO FBIHQ 1/23/79.

10 ON 1/25/79, CONVERSATION WAS HELD BETWEEN AUSA

[REDACTED] DISTRICT OF MASSACHUSETTS, AND

8 SUPERVISORY SPECIAL AGENT [REDACTED], FBIHQ, AT

WHICH TIME RESULTS OF FBIHQ ELSUR INDEX SEARCH OF NAMES

b6 - 1, 4, 6
b7C - 1, 4, 6

AND ROBERT L. MARTIN

4 DISCUSSED FOR PERIOD OF 1974 AND 1975.

SEARCH OF FBIHQ ELSUR INDEX WILL PROVIDE INFORMATION

2 INSOFAR AS THE INFORMATION HAS BEEN INDEXED. THE SEARCH BY

[REDACTED] REFLECTS: [REDACTED] NO RECORD

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PAGE 2

CONTINUATION SHEET

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PERIOD 1974 THROUGH 1975; [REDACTED] NO RECORD PERIOD 1974

b6 - 6
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20 THROUGH 1975; [REDACTED] NO RECORD PERIOD 1974 THROUGH

18 1975; [REDACTED] NO RECORD; [REDACTED] NO RECORD

PERIOD 1974 THROUGH 1975; AND ROBERT L. MARTIN-NO RECORD IN

16 CRIMINAL MATTERS PERIOD 1974 THROUGH 1975. INDEXED REFERENCES

TO OVERHEARS OF A ROBERT MARTIN WERE LOCATED IN 1974 AND 1975.

14 BUT WERE IN FCI MATTERS NOT IN STATE OF NEVADA AND [REDACTED]

INDICATED NO INTEREST IN THOSE REFERENCES.

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183-1868-76

FBI(20-cv-3269)-423

**United States Court of Appeals
For the First Circuit**

No. 79-1437

UNITED STATES OF AMERICA,

APPELLEE,

v.

HOWARD T. WINTER,

DEFENDANT-APPELLANT.

No. 79-1438

UNITED STATES OF AMERICA,

APPELLEE,

v.

MELVIN GOLDENBERG,

DEFENDANT-APPELLANT.

No. 79-1441

UNITED STATES OF AMERICA,

APPELLEE,

v.

ELLIOT PAUL PRICE,

DEFENDANT-APPELLANT.

No. 79-1442

UNITED STATES OF AMERICA,

APPELLEE,

v.

JAMES DeMETRI,

DEFENDANT-APPELLANT.

No. 79-1446

UNITED STATES OF AMERICA,

APPELLEE,

v.

CHARLES DeMETRI,

DEFENDANT-APPELLANT.

79-1476

UNITED STATES OF AMERICA,
APPELLEE,
v.
JAMES MARTORANO,
DEFENDANT-APPELLANT.

APPEALS FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
[HON. A. DAVID MAZZONE, *U.S. District Judge*]

Before
ALDRICH, CAMPBELL and BOWNES, *Circuit Judges*.

Albert F. Cullen, Jr., with whom *Cullen & Wall* was on brief, for appellant in Case Number 79-1437.

Morris M. Goldings, with whom *Hawkes & Goldings* was on brief, for appellant in Case Number 79-1438.

Jeffrey M. Smith, with whom *Paul T. Smith*; and *Harvey R. Peters* were on brief, for appellant in Case Number 79-1441.

Jeanne Baker, with whom *Barry M. Haight*, and *Joseph T. Travaline* were on brief, for appellants in Case Numbers 79-1442 and 79-1446.

Richard M. Egbert, by appointment of the Court, with whom *Marcus & Egbert* was on brief, for appellant in Case Number 79-1476.

Kathleen A. Felton, Attorney, Department of Justice, with whom *Edward F. Harrington*, United States Attorney, and *Jeremiah T. O'Sullivan*, Special Attorney, Department of Justice, were on brief, for appellee.

October 30, 1981

BOWNES, *Circuit Judge*. The case reaches us through two separate appeals: in the first, defendants Howard T. Winter, James Martorano, James DeMetri, Charles DeMetri, Elliot

Paul Price, and Melvin Goldenberg appeal their convictions following a 46-day trial on grounds that will be outlined below; in the second, all six defendants appeal both the district court's denial of their motion for a new trial and its denial of an evidentiary hearing on that motion. Because of the nature of the case, it is necessary to describe the indictment and recount the evidence presented at trial in some detail.

THE INDICTMENT

At the time it reached the jury, the indictment consisted of 42 counts. Count One charged that the appellants, as well as several others, were employed by and associated with an enterprise, as defined by 18 U.S.C. § 1961(4)² of the Racketeer Influenced and Corrupt Organizations Act (RICO), which was engaged in and the activities of which affected interstate commerce. This enterprise was alleged to have been composed of individuals associated in fact to fix by bribery horse races at various race tracks³ and to profit from this activity by wagering on those races. The count further alleged that, from on or about December 1973 to on or about

¹ Count One named twenty defendants, of whom only nine were tried in this action. Besides the six appellants, one defendant, Norman Mercier, was acquitted, one defendant, Robert Owen, pleaded guilty during trial, and one defendant, Sidney Tildsley, was convicted, but is not involved in this appeal.

² This section provides:

As used in this chapter—

(4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity[.]

³ The indictment identified the race tracks involved as Suffolk Downs Race Track, East Boston, Massachusetts; Rockingham Race Track, Salem, New Hampshire; Lincoln Downs Race Track, Lincoln, Rhode Island; Pocono Downs Race Track, Plains Township, Pennsylvania; Atlantic City Race Track, Hamilton Township, New Jersey; and Garden State Park, Cherry Hill, New Jersey.

November 1975, these individuals conspired with each other and with the Government's star witness, unindicted coconspirator Anthony Ciulla, to violate 18 U.S.C. § 1962(c)⁴ of RICO by conducting the affairs of the enterprise "through a pattern of racketeering activity."

As specifically outlined in the count, the alleged scheme involved betting on fixed races at East Coast tracks and also placing bets on the fixed races through illegal off-track bookmakers throughout the country. Several defendants, including Winter and Martorano, were alleged to have financed Ciulla and others to fix races by bribing jockeys, trainers, owners, and racing officials to prevent specific horses from finishing in the top three positions in their respective races. Certain members of the enterprise, including Winter, were alleged to have utilized force and violence to ensure that bribed jockeys and trainers actually performed as promised. Winter and Martorano, among others, were named as having caused Ciulla to travel from Massachusetts to Nevada to meet with bookmakers, including Price and Goldenberg, to arrange the terms on which the outside wagering on fixed races would be handled, and to collect the resulting profits.

To effectuate the scheme, several individuals would purchase large quantities of perfecta, exacta, trifecta, or quinella tickets⁵ on the fixed races. Others, including Winter, would make telephone calls in interstate commerce and discuss wagering information on those races. Winter, Martorano,

⁴ This section provides:

It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

⁵ Ciulla testified that these are forms of "exotic" wagering in which the bettor buys a ticket specifying the order of finish of certain horses. For example, in order to win on a trifecta ticket, the bettor would have to predict the top three horses and their exact order of finish.

Ciulla, and others drew up lists of New England independent bookmakers whom the group would cheat by betting with them on races the group had fixed, and the Las Vegas members of the enterprise, including Price and Goldenberg, would cheat Las Vegas independent bookmakers in the same way. The winnings from wagering both inside and outside the track were brought to Motorama Sales, Inc., in Somerville, Massachusetts, and divided among the group. Motorama Sales, which was owned and controlled by Winter and Martorano, was used as a meeting place for the members of the enterprise.

Finally, it was alleged that certain individuals, including Winter, Martorano, James DeMetri, Charles DeMetri, and Ciulla purchased a race horse, Spread The Word, for approximately \$30,000, with the purpose of having the jockey hold it back so that it would finish poorly in several races; when the odds were high enough, it was to be entered in a race with inferior horses and allowed to win.

Count One also contained 45 overt acts, all said to have been committed to effect the objects and purposes, and to be in furtherance of the conspiracy in violation of 18 U.S.C. §§ 1962(d)⁶ and 1963(a).⁷ The Government further developed its theory of the enterprise's operations through these overt acts. The mechanics of 16 fixed races were set out in detail. Included in this were descriptions of three separate incidents of violence, in which certain members of the enterprise beat

⁶ Under 18 U.S.C. § 1962(d) it is "unlawful for any person to conspire to violate any provisions of subsection (a), (b), or (c) of this section."

⁷ Section 1963(a) provides:

Whoever violates any provision of section 1962 of this chapter shall be fined not more than \$25,000 or imprisoned not more than twenty years, or both, and shall forfeit to the United States (1) any interest he has acquired or maintained in violation of section 1962, and (2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over, any enterprise which he has established, operated, controlled, conducted, or participated in the conduct of, in violation of section 1962.

up a trainer and two jockeys as part of the scheme. Also described were trips taken by Ciulla to Las Vegas to make plans with and to pick up large winnings from Nevada bookmakers, including Price and Goldenberg. James Martorano was identified as the person responsible for investing the enterprise's profits in legitimate businesses. An attempt by Ciulla, Winter, and Martorano to invest some of the enterprise's profits through the purchase of the Squire Lounge, a topless, go-go establishment in Revere, Massachusetts, was outlined.

In its final form, Count Two, which incorporated Count One by reference, charged Winter and Martorano with conducting the enterprise's affairs through a pattern of racketeering activity as defined in 18 U.S.C. §§ 1961(1) (B)⁸ and 1961(5).⁹ This pattern included racketeering acts as

⁸ Section 1961(1)(B) of 18 U.S.C. provides:

As used in this chapter—

(1) "Racketeering activity" means . . .

(B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891-894 (relating to extortionate credit transactions), section 1084 (relating to the transaction of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of state or local law enforcement), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), sections 2314 and 2315 (relating to interstate transportation of stolen property), sections 2341-2346 (relating to trafficking in contraband cigarettes), sections 2421-24 (relating to white slave traffic). . . .

⁹ Under this section:

charged in Counts Three through Forty-Two and Violations of 18 U.S.C. §§ 224,¹⁰ 1952,¹¹ and 2.¹² These activities were

(5) "pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity[.]

¹⁰ This section provides:

(a) Whoever carries into effect, attempts to carry into effect, or conspires with any other person to carry into effect any scheme in-commerce to influence, in any way, by bribery any sporting contest, with knowledge that the purpose of such scheme is to influence by bribery that contest, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(b) This section shall not be construed as indicating an intent on the part of Congress to occupy the field in which this section operates to the exclusion of a law of any State, territory, Commonwealth, or possession of the United States, and no law of any State, territory, Commonwealth, or possession of the United States, which would be valid in the absence of the section shall be declared invalid, and no local authorities shall be deprived of any jurisdiction over any offense over which they would have jurisdiction in the absence of this section.

(c) As used in this section—

(1) The term "scheme in commerce" means any scheme effectuated in whole or in part through the use in interstate or foreign commerce of any facility for transportation or communication;

(2) The term "sporting contest" means any contest in any sport, between individual contestants or teams of contestants (without regard to the amateur or professional status of the contestants therein), the occurrence of which is publicly announced before its occurrence;

(3) The term "person" means any individual and any partnership, corporation, association, or other entity.

¹¹ Under 18 U.S.C. § 1952:

(a) Whoever travels in interstate or foreign commerce or uses any facility in interstate or foreign commerce, including the mail, with intent to —

(1) distribute the proceeds of any unlawful activity; or

(2) commit any crime of violence to further any unlawful activity; or

said to be violations of 18 U.S.C. §§ 1962(c) and 1963(a). The Government withdrew the forfeiture provisions of this count on the final day of trial.

Counts Three through Forty-Two charged specific violations of 18 U.S.C. § 224 (Sports Bribery Act) and 18 U.S.C. § 1952 (Travel Act) and two violations resulting from the operation of the scheme. Most of the counts were based on incidents described as overt acts in Count One. Winter and Martorano were named in 38 of the counts, Price and Goldenberg in 15, and the DeMetris in only 2.

(3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity, and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

(b) As used in this section "unlawful activity" means (1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances (as defined in section 102(6) of the Controlled Substances Act), or prostitution offenses in violation of the laws of the State in which they are committed or of the United States, or (2) extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States.

(c) Investigations of violations under this section involving liquor shall be conducted under the supervision of the Secretary of the Treasury.

18 U.S.C. § 1952 (1970 & Supp. 1981).

¹² This section provides:

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

The jury convicted each appellant on every count in which he was named.

THE EVIDENCE

Our review of the evidence, together with all legitimate inferences to be drawn from it, must be made in the light most favorable to the party prevailing below, the Government. *E.g., United States v. Tedesco*, 635 F.2d 902, 906 (1st Cir. 1980); *United States v. Izzi*, 613 F.2d 1205, 1206 (1st Cir.), *cert. denied*, 446 U.S. 940 (1980). Credibility choices must be resolved in favor of the verdict. *United States v. Gonzalez*, 617 F.2d 104, 106 (5th Cir.), *cert. denied*, 101 S. Ct. 202 (1980); *United States v. Beecroft*, 608 F.2d 753, 756 (9th Cir. 1979). One of the few subjects on which the appellants and the Government agree is that the testimony of Anthony Ciulla was absolutely vital to the case. Testifying under an informal grant of immunity, Ciulla described in detail a scheme that — not surprisingly — neatly dovetailed with the indictment.

Formation of the Enterprise.

According to Ciulla, he first met with Winter in connection with this plan at a bar called the Back Room in Somerville in late 1973. There Ciulla agreed that he and his partner Barnoski, a fugitive at the time of the trial, would deal directly with jockeys and trainers in fixing horse races. Winter in turn agreed that he and his partners would finance the scheme, place outside bets with illegal bookmakers and collect money from them, and supply runners. Ciulla was to receive 50% of the profits, to be split with Barnoski, but be responsible for all losses. Winter was to split his half with his partners, whom he said included James Martorano.

Within a month, the group met again, this time at Marshall Motors¹³ in Somerville. Winter and Martorano were among those present. Ciulla testified that, during a discussion about the roles that the various participants in the scheme would play, Winter and Martorano mentioned Price and Goldenberg¹⁴ as "significant bookmakers" who could be instrumental in moving money to illegal bookmakers.

Ciulla testified that within the next two months, he traveled on Winter's instructions to Las Vegas, Nevada, to meet Price and Goldenberg to learn the tracks on whose races the most money could be bet outside with illegal bookmakers. He described two meetings with Price at the Riviera Hotel and two meeting with Goldenberg at the Tropicana Hotel. Both men promised to obtain the information that Ciulla needed. Ciulla reported back to Winter and Martorano at Marshall Motors that Price and Goldenberg would inform him of the amounts of money that could be "moved"¹⁵ with illegal bookmakers in Las Vegas. He testified that he called Price at the Riviera and Goldenberg at the Tropicana within a week of his return from Las Vegas and learned the names of the tracks where the group would be able to move the most money.

In April or May of 1974, Ciulla met Charles and James DeMetri and their brother Peter, now deceased; for the first time. This meeting occurred at the DeMetris' truck refrigeration business, Boston Thermo-King; Winter and Barnoski

¹³ Marshall Motors was also known as Motorama; Ciulla used both names in his testimony.

¹⁴ Goldenberg has used the name Golden both socially and for employment purposes for many years. Ciulla testified that at one time Golden was the only name by which he had known Goldenberg. Later, however, he testified that he had always known that Goldenberg's name was Goldenberg, and that he had had Goldenberg paged under that name at the Tropicana. Ciulla generally referred to Goldenberg as Golden during the trial.

¹⁵ Ciulla testified that "moving money" ~~meant~~ "betting amounts of money with illegal bookmakers on a specific race on a particular day."

were also present. Charles, James, and Peter DeMetri all agreed to participate in a race fixing scheme and to put in their names the horses that the group planned to buy. The DeMetri brothers were also in the racing business at that time and owned race horses.

At a subsequent gathering in June of that year, Ciulla, in Winter's presence, told all three DeMetris that the group planned to buy a race horse for approximately \$30,000. The DeMetris would own one-half interest in the horse, and the rest of the group, including Ciulla, Winter, and Barnoski, would own the other half. Ciulla explained that he intended to reduce the apparent value of the horse by several thousand dollars in order to deceive the public into not betting on it. This would be done by holding the horse in several races. The vastly underrated horse would then be allowed to win a race unexpectedly and produce large winnings for those few who bet on it — this group to include, of course, the participants in this scheme. Winter assured James, Charles, and Peter that they would be informed of the other races that Ciulla was fixing. Ciulla assured them that he would call them so that they could bet with outside illegal bookmakers, but that Winter and his associates would be entitled to half of their winnings.

As a result of these meetings, the DeMetris supplied \$15,000 of the \$26,000 needed to purchase the horse Spread The Word in mid-June 1974. Louise Hicks, the DeMetris' sister, was listed as the owner on the bill of sale, and the horse was transported to the DeMetris' farm in North Reading, Massachusetts.

The Races.

The indictment charged that the enterprise fixed twenty separate thoroughbred horse races: at Pocono Downs on August 12, 13, and 20, and September 8, 1974; at Lincoln Downs on August 1 and December 9, 1974, and on March 20, 1975; at Rockingham Park on August 6, 1975; at Suffolk Downs on October 16, and November 6 and 15, 1974; at Garden State Park on January 11, February 4, 8, and 13, and

May 22 and 23, 1975; and at Atlantic City Race Track on July 4, 12, and 17, 1975. Because the method Ciulla used to fix races changed very little from race to race, we will describe in detail only one such incident: the third race at Suffolk Downs on November 6, 1974, as charged in Count Twenty-One.

Ciulla testified that, on the evening of November 5, he spoke by telephone with both Barnoski and Guy Contrada. Contrada told Ciulla that he believed that the next day's third race could be fixed. At Ciulla's request, Contrada identified five jockeys scheduled to ride in the race who had been receptive to bribes in the past. As was ~~generally the case~~, Ciulla was unable to recall the names of ~~any of the jockeys~~ in this transaction without referring to ~~the list of names~~.

The next morning, Ciulla, accompanied by ~~Richard DiMatteo~~, met Contrada and Tommy Pizzi ~~at the Suffolk Downs~~ in Somerville, Massachusetts. Pizzi was scheduled to ride the favorite in the race. He felt that it would be difficult to ~~take the race~~, but agreed to do so for \$1,500 to \$2,000. Ciulla gave Contrada money to bribe the other four jockeys he had identified, for amounts ranging from approximately \$500 to \$1,000.

Contrada returned to the cafe from the track after paying off the four riders. Ciulla then traveled to Marshall Motors for a meeting that included Winter and possibly Martorano. He told the group to ready the bookmakers. Meanwhile, he studied the racing form and wrote out betting slips on which were noted the numbers of the horses that were not to be held. He then met the runners at or just outside the Marshall Motors garage and gave them their instructions: to purchase tickets on the horses indicated as close as possible to post time, to cash the tickets after the race, and to return with the winnings to the Winter Hill area.¹⁶ Ciulla also informed Winter and Martorano of his choice of Raven's Nova as the outside bet¹⁷ and told them not to bet with the outside bookmakers any earlier than necessary.

¹⁶ This is the name that Ciulla used to describe the area in Somerville in which Marshall Motors was located.

¹⁷ Ciulla explained that most bookmakers would not accept bets on "exotic" races such as trifectas and perfectas. Therefore, he would choose one specific horse on which the group would place its outside bet.

After the race, Ciulla met the runners, collected approximately \$30,000 from them, and paid each a few hundred dollars for his services. At a later conversation with Winter and others, he learned that the total winnings inside and outside the track for this race totaled about \$140,000.

The Second Trip to Las Vegas.

In late November 1974 Ciulla again traveled to Las Vegas where he met Price, Goldenberg, and Douglas Morello.¹⁸ He saw Price twice, on both occasions at the Riviera Hotel. At the first meeting, Ciulla informed Price that he was preparing to fix races at Garden State and that he wanted to know how receptive illegal bookmakers would be to accepting bets on those races. Price felt that Garden State would be a "very good" track for outside betting. Their second meeting took place the next day; Price said it would take him several days to obtain specific information on Garden State betting. Ciulla also met with Goldenberg at the Tropicana's coffee shop on his first day in Las Vegas to discuss betting on races at the New Jersey track. Goldenberg agreed this would be "very beneficial" and asked Ciulla to contact him later for specific information.

Ciulla testified that he telephoned Price at the Riviera during the first two weeks of December from the apartment home of Robert Owen, a codefendant who pleaded guilty during the trial. From an identification exhibit produced by the Government, a toll call record, he specified the time of the call

¹⁸ Douglas Morello was charged in the original superseding indictment, but the trial judge dismissed the case against him, and he did not testify at the trial. Throughout the trial, Ciulla referred to Morello as "Morelli"; we have adopted the spelling found in the indictment.

as December 4. During this call Price reported that he had made substantial progress with the illegal bookmakers.¹⁹

The Career of Spread The Word.

Although Ciulla's testimony on the scheme involving Spread The Word trickled out through six days of direct testimony, we recite only the highlights. In July 1974 arrangements were made for stabling and training Spread The Word at the DeMetris' farm in North Reading, Massachusetts. It ran its first race at Rockingham Park in New Hampshire and, although the favorite, lost by about 20 lengths. Its jockey, Contrada, had a difficult time holding the horse and the stewards questioned him about its finish. After that, Spread The Word was run at a gallop for a mile or two before a race so as to exhaust it. In the two other races Spread The Word was entered at Rockingham, it finished last.

Spread The Word was then entered in a claiming race at Penn. National race track in December of 1974. The necessary steps were taken to see to it that the horse would not be claimed; it finished fourth. Spread The Word was now eligible to run in starter handicap races and could no longer be claimed.

Arrangements were made to have Spread the Word race at Garden State race track in New Jersey in January of 1975. It was entered in two races, held back in both and finished either last or next to last in each.

The groundwork had now been laid and Spread The Word was put in a race to win on February 8, 1975, the ninth race at Garden State. Three jockeys were bribed to hold their mounts, just in case Spread The Word's ability was not sufficient. The horse won as planned. The track winnings came

¹⁹ In February 1975 Ciulla questioned Morello about the credibility of the illegal bookmakers, asking him if "they would still be receptive if several of ... [the] horses won." Morello responded that "bookmakers out here [Las Vegas] don't believe horses can win."

to between \$80,000 and \$90,000 and about \$400,000 were won on outside bets.

Plans were made to run Spread The Word in the third race at Garden State on February 22 but hold it back so it would not win. By this time, however, the racing stewards had become suspicious and scratched the horse when they were informed that it belonged to Winter, Ciulla and "the rest of the group from the Boston area." Thus ended Spread The Word's racing career.

The Final Trip to Las Vegas.

Ciulla testified that sometime between February 14 and February 22, 1975, he traveled from Boston to Las Vegas and met Price and Goldenberg. As was his custom, Ciulla met Price at a restaurant at the Riviera. Price told Ciulla that Winter had told him to expect Ciulla's arrival. Although he still had several illegal bookmakers to call, he handed Ciulla approximately \$100,000 in \$100 bills, wrapped in several packages and placed in a brown bag. He also informed Ciulla that Winter had arranged credit for him at the Riviera so that he could gamble there.

Ciulla met Goldenberg the next morning in the Tropicana's coffee shop. Goldenberg handed Ciulla several white envelopes containing about \$100,000 in \$100 bills and told Ciulla that he had not been able to collect all the money due, but that runners were to pick up later whatever he was not able to collect during Ciulla's stay.

Price and Ciulla met again that evening in a bar at the Riviera. Price had not been able to collect any more money from the bookmakers he had contacted, but Winter had arranged for runners to bring the balance to Boston.

Goldenberg and Ciulla met a second time the following evening at a restaurant in the Tropicana. Goldenberg mentioned that betting on the past few horses had helped him — apparently financially — because he was a "degenerate

gambler" and had "blown" a lot of money. Before his departure, Ciulla also picked up \$40,000 to \$50,000 from Morello.

On his return, Ciulla met Winter, Martorano, Barnoski, and others at Marshall Motors. At this point in his testimony, Ciulla specified the date of this meeting as February 18 or 19, 1975. While at Marshall Motors, the approximately \$250,000 that Ciulla had picked up in Las Vegas was distributed. Ciulla and Barnoski took one-half of the cash; Winter took the other half and divided it into sevenths. James Martorano took his share on the spot.

Corroborating Ciulla.

The remainder of the Government's case was aimed primarily at bolstering Ciulla's story. We briefly review the testimony of some of the more important witnesses called for this purpose.

The Government called as a witness a woman who had been employed as a secretary by Peter, Charles, and James DeMetri in 1973 and 1974. She testified that several meetings, attended by the three DeMetri brothers, Ciulla, and Winter, among others, were held at Boston Thermo-King during that period. She also mentioned that she overheard one conversation in which the group was discussing horses and that, when she left Thermo-King in August 1974, the DeMetris were in the process of building a track.

Vincent Mara was called to recount Owen's attempt to bribe him in order to prevent Spread The Word from being claimed.²⁰ Mara stated that just as Owen arrived, he spotted a man he later learned was Ciulla driving by. The Government also presented the testimony of several jockeys whom Ciulla had paid off. Each described in detail the cir-

²⁰ In August 1974 Ciulla, through Owen, had approached Vincent Mara, the racing secretary at Pocono Downs. Owen was to tell Mara that Ciulla wanted a race with a \$3,000 to \$3,500 claiming prize added to the racing program; Spread The Word was to be entered in it. Mara was to guarantee either that no claim would be

cumstances of several fixed races at various tracks; in each case Ciulla or an intermediary offered the jockey several hundred dollars to hold the horse he was riding out of the first three finishing positions. One rider testified that Ciulla paid him a bit more for one race so that he would not only hold his horse, but also serve as an "insurance rider" — one who watches the other bribed jockeys and prevents them from winning. Another testified that he had initially refused to hold the horses he was riding, but eventually relented when other jockeys began to box him in during races causing the horse he was riding to finish poorly. Many of the races discussed by these jockeys were not part of the indictment at all.

An officer of the Pennsylvania state police testified that he observed Ciulla, Owen, Barnoski, and several others at Pocono Downs races in August 1974. On one of these dates, he observed one of Ciulla's associates spend 16 of the 20 minutes the betting windows were open buying \$3.00 tickets; when he finished, he had a stack of tickets "about the size of a loaf of bread."

Another witness, who served as one of Ciulla's intermediaries, testified that Ciulla arranged for him to stable his race horse at the DeMetris' farm when it was scheduled to run at Rockingham Race Track in August 1975. In fact, the witness, as well as his horse, was a guest of James DeMetri at Ciulla's behest. The witness testified that James DeMetri picked him up at the airport and that they stopped for a drink on the way to North Reading; Ciulla and Barnoski both came into the bar later. When the witness returned to his home in

made on the horse, or that he would notify the group if a claim was made. If a claim was entered, the enterprise wanted the choice of either not sending Spread The Word to the post, or having the rider jump off the horse in the post parade. Owen was to agree to any reasonable figure that Mara requested as payment.

Owen's meeting with Mara lasted a mere 10-15 minutes. Owen reported to Ciulla that Mara had made it clear that he would have nothing to do with the scheme; he feared that Mara would call in law enforcement officials, so Spread The Word never made the trip to Pocono Downs.

New Jersey after the race, he left his horse at the DeMetri farm for an unspecified length of time, and James DeMetri refused to charge him for keeping the horse.

The Government also put into evidence neatly organized charts, listing toll calls that were made the day before, after, and of any race named in the indictment, and showing that they originated from several key locations, including the Rickshaw Inn, the Country Squire Motel, James Martorano doing business as Motorama Auto, and Barnoski's, Owen's,²¹ and Ciulla's homes. These charts included calls made to Thermo-King, the Tropicana (but not the Riviera), Ciulla's home, and to Charles DeMetri.

The Defense.

The Government established by direct examination, and the defense confirmed by cross-examination, that Ciulla was a liar, a cheat, and a convicted race-fixer who handed out not only money, but also cocaine and hashish, as bribes. The defense, however, consisted of more than outright denials by some of the defendants and wholesale character impeachment of the Government's principal witness by all of them. During cross-examination, Ciulla was forced to admit that his story on direct was filled with a very large number of minor inaccuracies. Several of the defendants also introduced, or discovered through cross-examination of Ciulla, evidence that directly contradicted his testimony. To indicate the extent to which Ciulla's testimony was undermined on some subjects, we mention some of the more striking inconsistencies in his story.

Howard Winter's attorney called a witness who produced a registration card from a Florida club showing that a Howard Winter had been a guest at the club from February 17 through February 25, 1975. Winter's account and daily sum-

²¹ Owen's phone was listed under his given name, Ronald Ethier. It appears that Owen changed his name legally several years ago.

mary sheets reflected charges throughout the period. The witness also produced a charge folio and daily summary sheets for a James Martorano that indicated that he also had visited the club over the same period of time. She viewed a home movie of Winter and Martorano allegedly taken at the resort and testified that the club appeared in February 1975 as it did in the film, although it had since undergone substantial renovation. This evidence contradicted not only Ciulla's testimony that he telephoned Winter at very specific locations in the Boston area over the two-day period surrounding the aborted Spread The Word race of February 22, 1975, but also his testimony that the money he picked up in Las Vegas was split among Winter, Martorano, and others on February 18 or 19 at Marshall Motors.

Counsel for Charles DeMetri called as a witness the owner of a travel agency, who testified that he had booked Charles DeMetri on a tour, beginning with a meeting in Boca Raton, Florida, on February 19, 1975, and concluding with a cruise on the S.S. Statendam from February 21 to March 3, 1975. Another witness, who had actually been on the tour, produced Charles DeMetri's stateroom assignment on the ship, as well as a photograph of Charles and his wife taken on board. The witness also presented a photograph taken of Charles and James DeMetri together in Boca Raton on the evening of February 20.

James DeMetri's attorney produced as a witness a business associate of both DeMetris who testified that he had flown to Florida with them on February 18 and remained with James DeMetri²² until February 20. On the morning of February 21, he and James returned to Boston.

The testimony of these witnesses directly conflicted with Ciulla's claim that he had called Charles DeMetri at his home on February 21 and 22, and James DeMetri at his home on February 22, to discuss his strategy on Spread The Word's scheduled race of February 22.

²² The witness testified that Charles DeMetri left at some point during this period to meet his wife and travel to Fort Lauderdale.

As discussed above, Ciulla also testified that soon after his return from his second meeting in Las Vegas, he called Price at the Riviera from Robert Owen's home in Rhode Island. From a Government exhibit, he identified the date of the call as December 4. Price's attorney produced Riviera Hotel records, including restaurant receipts signed by Ciulla and phone charges, that placed Ciulla at the Riviera itself as late as December 5.

Despite the apparent holes in his testimony, however, the jury chose to believe Anthony Ciulla. This was their prerogative, and the case was properly submitted to them.

CIULLA'S IMMUNIZED TESTIMONY

Because Ciulla's testimony was so vital to the Government's case, we first address the appellants' claims stemming from the Government's grant of immunity to him. Ciulla testified on direct examination by the prosecutor that he had entered into an agreement with the Government, through the Special Attorney prosecuting the case, guaranteeing that in exchange for his "full and complete and truthfull testimony, ... no further charges would be brought" against him, that arrangements would be made for one state sentence to run concurrently with another state sentence, that he and his family would be relocated, and that he "would be subsidized by the federal government ... until termination from the program." (the federal witness protection program).

Appellants' first contention, that this agreement impermissibly circumvented the requirements of the federal immunity statute, 18 U.S.C. §§ 6001-6005, particularly § 6002, is quickly dispatched. Appellants point to no language in the statute, perhaps because there is none, requiring that federal prosecutors follow its procedures. The Government's failure to use the statutory mechanism does not render its agreement with Ciulla unlawful. *United States v. Librach*, 536 F.2d

1228, 1230 (8th Cir.), *cert. denied*, 429 U.S. 939 (1976); *accord*, *United States v. Weiss*, 599 F.2d 730, 735 n.9 (5th Cir. 1979), *see Galanis v. Pallanck*, 568 F.2d 234, 235-36 & n.1 (2d Cir. 1977). "The decision of whether to prosecute rests in the Executive Branch." *United States v. Librach*, 536 F.2d at 1230.

Nor do we find the fact that the agreement was not reduced to a writing signed by Ciulla fatal to its use here especially since Ciulla and the prosecutor apparently agreed completely on the terms of their deal. Because the Government revealed the contents of its arrangements with Ciulla before trial, and Ciulla reiterated its scope at trial, we do not see how appellants' rights to either confrontation or due process were infringed. Finally, we disagree that the absence of a written agreement invited Ciulla to believe that the agreement was contingent on his performance to the Government's satisfaction. The case of *Boone v. Paderick*, 541 F.2d 447 (4th Cir. 1976), *cert. denied*, 430 U.S. 959 (1977), on which appellants primarily rely, is inapposite. In *Boone* a police detective who had no authority to bind the state promised the witness that he would not arrest him for the crime under investigation or any other offense, and that he would use his influence with the Commonwealth Attorney to ensure that the witness would not be prosecuted. *Id.* at 449. The *Boone* court pointed out that "a promise to recommend leniency (without assurance of it) may be interpreted by the promisee as contingent upon the quality of the evidence produced." *Id.* at 451. That sort of situation is not presented here.

The appellants also contend that using a nonstatutory grant of immunity permitted the Government to elicit from Ciulla while he was on the stand the statement that he had been immunized in return for his complete and truthful testimony; if immunized formally Ciulla would only have been able to state that he was protected unless he was found to have testified falsely.²³ In the context of this case, we believe

²³ Under 18 U.S.C. § 6002, testimony or other information compelled under the statute may be used against the witness in "a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order."

that the semantic difference between the two is a difference without a distinction. Ciulla's statement did not, as appellants claim, allow the Government to vouch for its witness's credibility. In the case on which appellants primarily rely, the Ninth Circuit noted that prosecutorial vouching for the credibility of a Government witness occurs in two ways: "the prosecution may place the prestige of the government behind the witness [by personal assurances of the witness's veracity] or may indicate that information not presented to the jury supports the witness's testimony." *United States v. Roberts*, 618 F.2d 530, 533 (9th Cir. 1980). Neither was used here. The prosecutor merely requested Ciulla to describe his immunity agreement; he made no attempt to communicate the idea that the Government was thereby guaranteeing that Ciulla was being truthful.

Unlike the appellants, we do not find our decision in *United States v. Miceli*, 446 F.2d 256 (1st Cir. 1971), relevant. In *Miceli* the Government stated in its closing argument that the principal Government witness had made an arrangement to testify truthfully about the transaction in which he was involved. *Id.* at 261. We were unable to determine from the record whether this comment by the prosecutor (not, as here, by the witness) was intended to express his personal opinion about the witness's veracity, which would be improper testimony by the Government attorney. In the absence of an objection, we refused to find that the remark was plain error. *Id.* We do not believe that the prosecutor's questions here can colorably be characterized as testimony. Moreover, there was no vouching for Ciulla's credibility by the prosecutor in his final argument.

We find the situation here analogous to that in *United States v. Craig*, 573 F.2d 518 (7th Cir.), cert. denied, 439 U.S. 820 (1978), in which a key witness testified on direct examination that she understood that under the terms of her immunity agreement, "my testimony or evidence that I will give will not be held against me as long as I tell the truth." *Id.* at 519.

The Seventh Circuit did not view the prosecutor's inquiry about the witness's understanding of the agreement as a form of vouching by the Government, and noted that not only did it aid the jury, it also often provided a fertile subject for cross-examination. *Id.* We agree with this assessment. See *United States v. Creamer*, 555 F.2d 612, 617-18 (7th Cir.), cert. denied, 434 U.S. 833 (1977). But cf. *United States v. Arroyo-Angulo*, 580 F.2d 1137, 1146-47 (2nd Cir.) (cooperation agreement properly introduced only on redirect examination when witness's veracity has been attacked; not reversible error in this case to introduce agreement on direct examination in view of inevitability of defense attacks on witness's credibility and vigor of attacks actually made), cert. denied, 439 U.S. 913, 1005 (1978), 439 U.S. 1131 (1979).

Nor do we think that the trial judge's jury instructions on Ciulla's immunity were a form of "judicial vouching." He repeated a key section of the agreement, adverted to the absence of a formal agreement, and strongly cautioned the jury to examine Ciulla's testimony with great care.²⁴ His instruction on this point benefited rather than injured the appellants.

²⁴ The trial judge instructed the jury:

Now, you have heard testimony that Anthony Ciulla in exchange for testifying truthfully, completely and fully has been granted immunity from the government. By that I mean, and you have heard testimony to the effect, that for testifying fully, truthfully and completely Mr. Ciulla will not be prosecuted for any crimes he may have admitted in his testimony here in court, or even out of court. One who testifies with the benefit of immunity, with a promise from the government that he will not be prosecuted, does not become an incompetent witness. His testimony may be received in evidence and considered by the jury, even though not corroborated or supported by evidence.

Now, I have used the word "immunity" because, in my judgment, it is the word that applies. Immunity is usually a formal order, signed by the judge who grants it. There is no such order in this case, but, from the testimony, I believe that I am justified in telling you that the government has, in fact,

Further, the fact that the Special Attorney who reached the immunity agreement with Ciulla was also lead counsel for the Government at trial did not automatically make that attorney a witness in the case. Moreover, there was nothing to prevent the appellants from calling him to the stand, and there has been no showing that the Special Attorney was the only person competent to testify about the terms of the deal.

Finally, we do not agree that, in light of the sustained, and in some instances, successful attack on Ciulla's testimony, the Government knew or should have known that his testimony was false, thus triggering a duty to correct the record. In view of the great numbers of races, meetings, and phone calls recounted and the number of years between the events testified about and the trial itself, some errors in memory might be expected from any witness, without indicating that he or she was lying.

THE LEGAL SUFFICIENCY OF COUNT ONE —
THE RICO CONSPIRACY COUNT

All appellants challenge Count One on the ground that the "case was tried as an invalid theory of RICO enterprise." The basis for this claim ended with the decision of the United States Supreme Court in *United States v. Turkette*, 49

promised Anthony Ciulla will not be prosecuted for any of the crimes that have been alleged here and which he may have admitted. That is why I use the word "immunity."

This testimony should be examined by you with greater care than the testimony of an ordinary witness. You should consider that testimony and whether it is being affected by his personal interest, his personal advantage, any prejudice he might have against a defendant or any personal antagonism he might have. Also, you may consider the record of prior convictions in your evaluation of that witness's testimony; and, after such consideration, you may give the testimony of Mr. Ciulla such weight as you believe it deserves. I will repeat for you that the testimony may be received and considered by you, even though not corroborated by other evidence, and given such weight as you feel it should have. You must, however, keep in mind that the testimony is always to be received with caution and considered with great care.

U.S.L.W. 4743 (June 17, 1981), holding that the term "enterprise" as used in the Racketeer Influenced and Corrupt Organizations Act encompasses both legitimate and illegitimate enterprises. We find no merit in defendants' claim that Count One is unconstitutionally vague on its face or as applied, particularly in the light of *Turkette*.

The next RICO issue raised by all appellants is that Count One failed to allege any nexus between each defendant and two or more predicate crimes constituting a pattern of racketeering activity. This requires us to determine what must be charged in a RICO conspiracy count to make it legally sufficient.

We start with the basics:

It is an elementary principle of criminal pleading, that where the definition of an offence, [*sic*] whether it be at common law or by statute, "includes generic terms, it is not sufficient that the indictment shall charge the offence [*sic*] in the same generic terms as in the definition; but it must state the species, -- it must descend to particulars.

United States v. Cruikshank, 92 U.S. 542, 558 (1875). See also *Russell v. United States*, 369 U.S. 749, 765-66 (1926).

Here, as noted, the charge was conspiring to conduct the enterprise's affairs through a pattern of racketeering activity. In *Turkette* the Supreme Court held:

The "enterprise" is not the "pattern of racketeering activity"; it is an entity separate and apart from the pattern of activity in which it engages. The existence of an enterprise at all times remains a separate element which must be proved by the Government.

49 U.S.L.W. at 4745 (footnote omitted). A RICO conspiracy count must, therefore, charge an "enterprise" and "pattern of racketeering activity" separately. Enterprise "includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity." 18 U.S.C. § 1961(4).

"Racketeering activity" is defined exhaustively and specifically in 18 U.S.C. § 1961(1) (commonly referred to as "predicate crimes"). It includes "any act which is indictable under any of the following provisions of title 18, United States Code: ... section 224 (relating to sports bribery) ... section 1952 (relating to racketeering). ..."

Section 1961(5) states that a

"pattern of racketeering activity" *requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act or racketeering activity[.]* (emphasis added).

The statute, however, does not make clear the extent of the activity in which each defendant must engage to be culpable as RICO conspirators: must each RICO conspiracy defendant agree that someone in the enterprise will commit two predicate crimes, must each member agree to commit two such acts individually, or must each member actually commit two such acts individually?

Both the appellants and the Government agree that the conspiracy analysis in *United States v. Elliot*, 571 F.2d 880 (5th Cir.), cert. denied, 439 U.S. 958 (1978), is instructive on this question. Unfortunately, the appellants and the Government do not agree on what the Fifth Circuit meant in *Elliot*. In *Elliot* the court faced a gargantuan criminal scheme involving 6 defendants, 37 indicted coconspirators, and, significantly, over 20 different criminal endeavors ranging from arson to rippling meat and shirts. The court noted that, under pre-RICO conspiracy concepts, it doubted that a single conspiracy could be proved.²⁵ *Id.* at 902. Under RICO, however, a conspiracy of such diverse parts could ex-

²⁵ In contrast to the appellants' scheme in *Elliot*, the enterprise here had only one major goal -- the fixing of horse races for profit -- which it accomplished for the most part through a fairly predictable routine.

ist, but "[t]o be convicted as a member of an enterprise conspiracy, an individual, by his words or actions, must have objectively manifested an agreement to participate, directly or indirectly, in the affairs of an enterprise *through the commission of two or more predicate crimes*." *Id.* at 903 (emphasis in original).

The Government argues that *Elliott* requires that a RICO conspiracy be established by proof that each defendant agreed to commit personally two or more predicate crimes constituting a pattern of racketeering activity. The appellants, while grudgingly admitting that the Government's view might be the least that *Elliott* requires, argue strenuously that the case should be read to require a defendant to manifest his agreement to participate in a RICO conspiracy by actually committing two or more predicate crimes.

In view of the fact that coconspirators need not have accomplished their underlying criminal goals to be found guilty of conspiracy, we find it difficult to accept the appellants' argument. See *United States v. Cruz*, 568 F.2d 781, 782-83 (1st Cir. 1978) (agreement is necessary to make out a conspiracy, but not to make out substantive crime; proof of substantive crime unnecessary to make out a conspiracy). We have found the rationale in *Cruz* applicable to RICO conspiracies. *United States v. DeVincent*, 632 F.2d 155, 159 (1st Cir. 1980) (substantive count, which did not allege conspiracy, separate from RICO conspiracy charge, in which actual commission of or attempt to commit substantive crime unnecessary). Requiring one to knowingly join an enterprise and agree to commit two or more predicate crimes provides sufficient protection to those who might otherwise be convicted through guilt by association. We, therefore, hold that a RICO conspiracy count must charge as a minimum that each defendant agreed to commit two or more specified predicate crimes in addition to charging an agreement to participate in the conduct of an "enterprise's" affairs through a "pattern of racketeering activity."

We now turn to Count One. Paragraph 1(e) charges that all defendants

were employed by and associated with an enterprise as defined by title 18, United States Code, Section 1961(4), which enterprise was engaged in and the activities of which affected interstate commerce, to wit, a group of individuals associated in fact to fix horse races by bribery at various race tracks in the United States and to profit therefrom by wagering on the fixed races.

This was sufficient to charge a RICO enterprise.

Paragraph 2 charges a conspiracy to violate 18 U.S.C. § 1962(c).²⁶ Paragraph 3 charges that as part of the conspiracy the defendants would conduct "the enterprise's affairs through a pattern of racketeering activity." Paragraphs 4 through 12 allege specific predicate crimes committed by each defendant: Winter is charged with six (§§ 4, 5, 7, 8, 10, and 11); Martorano with four (§§ 4, 5, 8 and 10); Price with two (§§ 5 and 9); Goldenberg with two (§§ 5 and 9). James and Charles DeMetri are, however, named only in paragraph 12 (originally § 13). We have no difficulty finding that, except as to the DeMetris, Count One is legally sufficient.

We next consider the sufficiency of Count One as it affects the DeMetris. The only paragraph in which the DeMetris are mentioned is number 12, which states:

12 [13]. It was further part of the conspiracy that the defendants Howard T. Winter, John Martorano, James Martorano, William Barnoski, Joseph M. McDonald, James L. Sims, Charles DeMetri, James DeMetri and unindicted co-conspirator Anthony Ciulla would purchase the horse Spread The Word for approximately \$30,000, enter the horse in several races where it was planned that it would finish well out of the money because the horse would be held by the jockeys riding it in these races, and finally enter the horse in a race

²⁶ See n.4 *supra* (text of 18 U.S.C. § 1962(c)).

against inferior horses where it was planned that the horse would then win the race.

We find it difficult to construe this as alleging an agreement to commit even one predicate crime; clearly, it does not specify two predicate crimes. This paragraph is devoid of the words "bribery," and "fix or fixed races" that permeate the other paragraphs of Count one.²⁷

The Government attempts to circumvent this omission by asserting that the DeMetris were properly charged with the

²⁷ 4. ... to fix horse races by bribing jockeys, trainers, owners and racing officials to prevent certain horses from finishing in the top three positions in the races.

5. ... to arrange the terms on which wagering activities on fixed horse races would be handled and to collect monies resulting from wagers placed on fixed horse races.

6. ... would buy perfecta, exacta, trifecta and quinella tickets in large quantities at the race track on the fixed thoroughbred horse races.

7. ... would make telephone calls in interstate commerce and would discuss bets, wagers and other information concerning wagering on the fixed horse races.

8. ... would draw up lists of independent bookmakers in the New England area whom they would cheat by placing bets and wagers on thoroughbred horse races in which the outcomes had been, at least in part, pre-determined through the bribery of jockeys and trainers.

9. ... would cheat independent bookmakers by placing bets on thoroughbred horse races in which the outcomes had been, at least in part, pre-determined through the bribery of jockeys, and trainers.

commission of two predicate offenses in Counts Five²⁸ and Thirty-Two²⁹ of the indictment. Count One, however, does not incorporate by reference either Count Five or Count

²⁸*COUNT V*

On or about February 8, 1975, in the District of Massachusetts and in the State of New Jersey and elsewhere, the defendants

Howard T. Winter
John Martorano
James Martorano
William Barnoski
Joseph M. McDonald
James L. Sims
Robert Duda
Melvin Goldenberg
Douglas Morello
Elliot Paul Price
Richard Donati
Charles DeMetri, and
James DeMetri

did willfully and knowingly carry into effect and attempt to carry into effect a scheme in commerce to influence by bribery a sporting contest, to wit: the defendants engaged in a scheme to bribe jockeys in the ninth race at Garden State Park, Cherry Hill, New Jersey, on February 8, 1975, which scheme was effectuated by travel between the states of Massachusetts and New Jersey and elsewhere and by the use of interstate telephone facilities to place telephone calls between the states of Massachusetts and New Jersey, and elsewhere.

All in violation of Title 18, United States Code, Sections 224 and 2.

²⁹*COUNT XXXII*

On or about February 1, 1975, in the District of Massachusetts, and in the State of New Jersey, the defendants

William Barnoski
Robert Duda
Richard Donati
Charles DeMetri, and
James DeMetri

did unlawfully, knowingly and willfully travel in interstate commerce between Massachusetts and New Jersey, said defendants intending to promote, manage, establish, carry on, and facilitate the promotion, management, establishment and carrying on of an unlawful activity, said unlawful activity be-

Thirty-Two and neither of them refers to Count One.³⁰ Only Count Two, which does not name the DeMetris as defendants, incorporates Count One by reference. The indictment as drawn does not admit of Counts Five and Thirty-Two being used as predicate crimes for Count One. "Each count in an indictment is regarded as if it was a separate indictment." *Dunn v. United States*, 284 U.S. 390, 398 (1932). "Each count must stand on its own, and cannot depend for its validity on the allegations of another count not specifically incorporated." *United States v. Fulcher*, 626 F.2d 985, 988 (D.C. Cir. 1980), *cert. denied*, 101 S. Ct. 116 (1981); *United States v. Huff*, 512 F.2d 66, 69 (5th Cir. 1975). We note also that out of forty-five overt acts, the DeMetris were named only in one, number 23, which states simply that they, along with other defendants, entered the horse Spread The Word in the ninth race at Garden State on February 8, 1975.

We find Count One legally insufficient as to Charles and James DeMetri because it fails to charge that they agreed to commit two predicate crimes. It must, therefore, be dismissed as to them and their convictions on it reversed.

The next question is whether there was misjoinder of the DeMetris. Federal Rule of Criminal Procedure 8(b) permits joinder if the defendants "are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses." The key words are the "same series of acts or transactions." We have here an indictment which originally consisted of fifty substantive counts, with forty-one of them going to the jury

ing bribery in violation of New Jersey Rev. Stat. Section 5:5-71, and did thereafter perform, attempt to perform, and cause acts to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of an unlawful activity, to wit: affecting by bribery the outcome of pari-mutuel thoroughbred horse races.

All in violation of Title 18, United States Code, Sections 1952 and 2.

³⁰ Incorporation by reference from one count to another is permitted under Federal Rule of Criminal Procedure 7(c)(1).

along with the RICO conspiracy count. Although DeMetris were charged on two substantive counts, Five and Thirty-Two, Thirty-Two charges only that they traveled from Massachusetts to New Jersey to engage in the scheme described in Count Five: "to bribe jockeys in the ninth race at Garden State Park, Cherry Hill, New Jersey, on February 8, 1975." The indictment alleged that twenty different races at various race tracks had been fixed (Counts Three through Twenty-Two). Defendants Winter and Martorano were charged with bribing jockeys in all twenty races; Price and Goldenberg were charged with bribery in seven races. As to these four defendants, with or without a RICO conspiracy count, the indictment fairly alleged the "same series of acts or transactions."³¹ But we fail to see how Counts Five and Thirty-Two bring the DeMetris within the "series." The evidence shows that active participation by the DeMetris in race fixing was limited to the scheme using the horse Spread The Word. We think it significant that they were not specifically named in paragraph 10 of Count One³² as those who were to share in the winnings from the fixed races.

The prejudice to the DeMetris in being joined as RICO conspirators and tried as part of a massive race fixing conspiracy is obvious. Count One included charges, substantiated by Ciulla's testimony, of the use of force and violence to ensure compliance with the bribes. The DeMetris were not implicated in this in any way. This case is totally different from *Schaffer v. United States*, 362 U.S. 511 (1960), in which the court held that the dismissal of a conspiracy count does not result in misjoinder as a matter of law. In *Schaffer* there were three substantive counts and one conspiracy count. The dis-

³¹ This disposes of the claims of Price and Goldenberg that they were improperly joined.

³² 10. It was further part of the conspiracy that the winnings from wagering inside and outside the race tracks would be brought to Somerville, Massachusetts and divided by the defendants Howard T. Winter, John Martorano, James Martorano, Joseph M. McDonald, James L. Sims, William Barnoski, and others and undicted co-conspirator Anthony Ciulla.

trict court dismissed the conspiracy count at the end of the Government's case for failure of proof. In sustaining the finding of no prejudice by the district court and the court of appeals, the Court noted "the proof was carefully compartmentalized as to each petitioner." *Id.* at 515. That is not the case here; Ciulla's testimony flowed over the DeMetris like a river overrunning its banks. In *King v. United States*, 355 F.2d 700 (1st Cir. 1966), we observed:

A joinder of offenses, or of defendants, involves a presumptive possibility of prejudice to the defendant, and of benefit to the court, by which term we include the government and the public. Although the two matters are disparate and difficult to compare, the prejudice may be relatively small, compared to the benefit, and hence tolerable.

Id. at 703. We do not think the prejudice to the DeMetris was within tolerable limits. With the RICO conspiracy count eliminated, the only link between the DeMetris and the other defendants was their joint participation in fixing one out of twenty races. Unlike *Schaffer*, the conspiracy count here went to the jury. In fact, after making the *Petrozziello* determination,³³ the court told the jury, "[y]ou may now consider all the evidence introduced at this trial in making your determination as to any of the defendants' participation in the offenses charged." The court thereby wrapped the DeMetris and the other defendants in the same blanket.

The DeMetris were prejudiced beyond rescue in two ways. The RICO conspiracy count marked them indelibly as members of a massive race fixing ring that employed bribery and force and violence as its modus operandi, and the number of substantive counts and proof of fixed races in which they were not implicated could only have overwhelmed the judgment of the jury so as to make it extremely unlikely that they could consider the evidence as to the one race in which the DeMetris were involved dispassionately and in isolation.³⁴

³³ See next section of opinion.

³⁴ We do not reach the question of whether the district court abused its discretion in denying severance pursuant to Federal Rule of Criminal Procedure 14.

The convictions of Peter and Charles DeMetri are reversed.

There is one other challenge to the indictment, mainly implicating Count One, to be considered. Goldenberg claims that he was deprived of his right to be tried on the indictment as returned by the Grand Jury because the court "substantially" modified it after the evidence was closed and before submitting it to the jury.

It is "the settled rule in the federal courts that an indictment may not be amended except by resubmission to the grand jury, unless the change is merely a matter of form. *Ex parte Bain*, 121 U.S. 1; *United States v. Norris*, 281 U.S. 619; *Stirone v. United States*, 361 U.S. 212." *Russell v. United States*, 369 U.S. 749, 770 (1962). Ancillary to this "is the rule that a portion of an indictment that the evidence does not support may be withdrawn from the jury and this is not an impermissible amendment, provided nothing is thereby added to the indictment, and that the remaining allegations charge an offense." 1 C. Wright, *Federal Practice and Procedure* § 127, at 274-75 [hereinafter Wright]; see *Salinger v. United States*, 272 U.S. 542, 548 (1926); *United States v. Coast of Maine Lobster Co.*, 557 F.2d 905, 909-10 (1st Cir.), *cert. denied*, 434 U.S. 862 (1977).

We examine the "modifications" of which Goldenberg complains. The deletion of paragraph 12³⁵ in Count One did not affect him at all because he was not named therein. His argument that the word "defendants" — which is followed by five names in apparent apposition — could include him is spurious. Overt Act 6 originally stated: "On August 1, 1974, Anthony Ciulla telephoned John Martorano from Rhode Island and told him to bet the horse Olympia Mike across the board through bookmakers Melvin Goldenberg, Douglas

³⁵ 12. It was further part of the conspiracy that the defendants, Howard T. Winter, John Martorano, James Martorano, Joseph M. McDonald, and James L. Sims, would use their reputations for violence to ensure that no independent bookmaker who had been defrauded by the defendants' bets and wagers on fixed thoroughbred horse races would fail to pay the defendants.

Morello and Elliot Paul Price in Las Vegas, Nevada." The court deleted everything after the words Olympia Mike. It also struck from the indictment Overt Act 13 in which it was alleged that an untried defendant (Joseph M. McDonald) stated that a jockey, Edward Donnally, "should be killed and his body placed in the backstretch at Suffolk Downs as a warning to other jockeys." The court also deleted Overt Act 17, which implicated by name only defendant Winter; John Martorano, not a defendant, was also named.

These deletions were clearly a matter of form, not substance; they in no way changed or altered the indictment as to Goldenberg.

JOINT ISSUES ON TRIAL INSTRUCTIONS

We next consider three questions raised by all appellants jointly concerning certain instructions by the trial court to the jury.

The Petrozziello Determination.

On the twenty-first day of trial, at the close of Ciulla's testimony, the trial judge told the jury that it could consider all of the evidence introduced at trial when determining the participation of any of the defendants in the offenses charged. All defense counsel objected.

In *United States v. Petrozziello*, 548 F.2d 20 (1st Cir. 1977), we held that, in accordance with Federal Rule of Evidence 801(d)(2)(E), the trial judge rather than the jury must determine whether out-of-court declarations of coconspirators should be admitted against a defendant. *Id.* at 22. Because the judge is ruling on admissibility, not guilty or innocence, he or she is to use the ordinary civil standard in deciding whether a conspiracy has been proven: "if it is more likely than not that the declarant and the defendant were members of a conspiracy when the hearsay statement was made, and

that the statement was in furtherance of the conspiracy then the statement is admissible. *Id.* at 23.

The appellants argue first that the trial judge did not apply the standard of proof mandated in *Petrozziello*.

In the course of the bench conference on this issue, he told counsel:

I am only charged with finding that it is more likely than not that there is a conspiracy and that the defendants took part in it. I'm also charged to some extent with assessing his [Ciulla's] credibility. And I do not find that he is so inherently incredible as to not even allow the case to go to the jury.

What you are arguing . . . is a Motion for Judgment of Acquittal. (emphasis added).

The judge reiterated later in the same conference that he felt it more likely than not that the declarant and the defendants were members of a conspiracy between December 1974 and November 1975 when the statements in question were made and that the statements were made in furtherance of the conspiracy. He found that Ciulla's testimony was credible and supported by independent evidence of toll record registrations, and race charts and "that each defendant and each coconspirator had been involved sufficiently by nonhearsay evidence, including 801(d)(2) statements, which sufficiently indicate their involvement in this criminal enterprise." Such evidence left "very little choice except for the jury to believe him [Ciulla] or not."

It is apparent that the trial judge understood the standard set out in *Petrozziello*, but the timing of his decision was premature. He repeatedly relied on the "more likely than not" standard in making his decision, but made that decision based on the most important evidence in the Government's case, Ciulla's testimony. In *United States v. Ciampaglia*, 650 F.2d 632 (1st Cir.), cert. denied, 101 S. Ct. 365, 618 (1980), decided over a year after the trial in this case, we held that the trial court should make its final *Petrozziello* determination

at the close of all the evidence, out of the hearing of the jury. *Id.* at 638. We noted in *Ciampaglia* that in adopting the "more likely than not" test, "we have implicitly anticipated that the defendant's evidence would be taken into consideration"; finding out-of-court declarations admissible after hearing only the prosecutor's evidence "would render almost meaningless any difference between the standard announced in *Petrozziello* and the prima facie standard that it replaced." *Id.* Thus appellants' first argument merges with their second: that the trial judge refused to consider any of the defendants' evidence when making the *Petrozziello* ruling.

In *Ciampaglia* the defendant-appellant's failure to object at trial to the timing of the district court's finding barred him from raising the point on appeal in the absence of plain error. Here, defense counsel specifically objected to the court making preliminary findings about the coconspirators without first hearing all the evidence, or at least hearing the evidence on the membership of the alleged conspiracy. Nevertheless, we do not agree that the trial judge committed reversible error in making the ruling during the Government's case. In this regard, we are influenced by the fact that the court was operating without the benefit of controlling legal precedent on this point.³⁵ We note also that defense counsel did not request a reconsideration of the court's ruling when all the evidence in the case had been presented. Of greatest importance to our decision, however, is the fact that we believe that a *Petrozziello* finding

³⁵ In *United States v. James*, 590 F.2d 575, 582-83 (5th Cir.) (in banc), cert. denied, 442 U.S. 917 (1979), the Fifth Circuit made prospective only the rule that the trial court must make the conspiracy finding at the conclusion of all the evidence. Similarly, the Eighth Circuit, in explaining that an explicit on-the-record determination regarding the admissibility of a coconspirator's statement was required in future trials, also found that the absence of such a determination in the case before it was not plain error given the absence of appellate guidance on the point. *United States v. Bell*, 573 F.2d 1040, 1044-45 (8th Cir. 1978).

We refused to find our holding in *Petrozziello* retroactive in *United States v. Machedon*, 562 F.2d 103, 105 (1st Cir. 1977).

at the close of all the evidence in the case would have reached the same conclusion.

Most of the evidence presented by the appellants was directed at attacking Ciulla's credibility. Several of the appellants took the stand to deny either the occurrence of, or Ciulla's version of, the events described in the principal witness's testimony. Evidence was also introduced that, if believed, would directly contradict some of Ciulla's statements. In *United States v. Mackedon*, 562 F.2d 103, 105 n.2 (1st Cir. 1977), we noted in passing that we did not "understand why a court would be barred from finding a preponderance simply because all or most of the prosecution's case depends upon the credibility of one witness." We find here that the trial judge was not prevented from finding a preponderance in this case merely because the Government's case hinged on Ciulla's testimony. Moreover, we believe that the judge implicitly made such a finding by permitting the conspiracy charge to go to the jury.³⁶ It is apparent that because, after hearing all the evidence and observing the demeanor of all the witnesses in this case, the trial judge found there was sufficient evidence for the jury to find beyond a reasonable doubt that a conspiracy had been formed, he must also have found that a preponderance of the evidence supported the finding of such a conspiracy.

³⁶ The judge's final jury instructions on this point followed the pattern set out in the pre-*Petrozziello* case of *United States v. Honneus*, 508 F.2d 56 (1st Cir. 1974), cert. denied, 421 U.S. 948 (1975). Under *Honneus* the jury was told, either before or immediately after the first instance of hearsay testimony, that the conspiracy itself and each defendant's participation in it had to be established by independent nonhearsay evidence, *id.* at 577, and that the hearsay evidence was not to be considered unless the jury was satisfied that the defendants were in fact members of the conspiracy. *Id.* at 578. Here the judge charged in part that "to determine whether a defendant was a member of an alleged conspiracy you can consider only that evidence, if any, pertaining to his own acts and statements" and that a defendant was not responsible for the declarations of other alleged participants until it was established beyond a reasonable doubt that a conspiracy existed and that the

Jury Instructions on Count One.

All remaining appellants also claim that the jury instructions on the RICO conspiracy count were fatally defective. We find nothing mortal, only one surface wound that does not come close to reversible error.

The trial judge began his instructions on Count One by reading 18 U.S.C. §§ 1962(c) and (d). The terms "enterprise," "conduct," "racketeering activity," "pattern of racketeering," and "interstate commerce" were correctly defined. The court then explained the elements of conspiracy and the proof required generally and in the context of this case. The Count One instruction was complete, even-handed, clear, and, except as discussed below, correct.

Therefore, under the statutes, as distinguished from a simple conspiracy statute, you must find that the defendants did more than simply agree to join this conspiracy. You must find the following: that a defendant by his words or actions must have objectively manifested an agreement to wilfully participate, directly or indirectly, in the affairs of an enterprise through the commission of two or more offenses which make up the pattern of racketeering activity in this case, that is, *the bribery charges, the travel and use of interstate telephone charges, which are charged throughout the indictment.* (emphasis added).

Appellants contend that the italicized portion of the instruction erroneously incorporated the substantive Counts Three through Forty-Two into Count One. As already noted, there can be no assumed or implied incorporation of one count into another. But the question here is not the legal suf-

defendant was one of its members, based upon the evidence of his own acts and statements. As we pointed out in *United States v. Fontanez*, 628 F.2d 687 (1st Cir. 1980, "[a]lthough the ghost of *Honneus* may still be flitting about, it causes no harm and ... is probably beneficial to a defendant." *Id.* at 689.

ficiency of the indictment; it is clear that Count One charged Winter, Martorano, Price, and Goldenberg with the requisite two predicate crimes. As to these appellants, the substantive counts were not necessary to flesh out an otherwise incomplete conspiracy count as they were for the DeMetris. As we read this part of the instructions, the jury was instructed that it could not find the appellants guilty of conspiracy unless it first found that they actually committed two predicate crimes. This was error in light of our holding that a RICO conspiracy count must allege only an agreement to commit two predicate crimes, not their actual commission. The error, however, benefitted the appellants; it required the Government to prove more than was necessary. Indeed, this is what appellants have urged is required for a RICO conspiracy.

Appellants' claim of error as to the mid-deliberation instruction has not even a semblance of validity. On the second day of deliberations the jury requested "the legal definition of a conspiracy." Contrary to appellants' assertions, the court did not merely repeat its original conspiracy instruction. It used, insofar as possible, different words and phrases to explain to the jury again the elements of Count One and the proof required. A jury request for a clarification of an instruction of a legal definition already given is particularly difficult to satisfy when, as here, the original was complete and essentially correct.³⁷ Because the new instruction must both be given in English and be legally sound, it is bound to follow the original.

The instructions on Count One did not amount to reversible error as to Winter, Martorano, Price and Goldenberg.

Instructions On Intent.

In the course of his instructions on intent, the trial judge told the jury that:

³⁷ The court repeated its original error as to the necessity of committing two or more offenses.

An act is done wilfully if done voluntarily and intentionally and with the specific intent to do something the law forbids, that is to say with a bad purpose either to disobey or disregard the law.

An act is done knowingly, if it is done voluntarily and intentionally and not because of mistake or accident or other innocent reason. The purpose of adding the word "knowingly" is to insure that no one will be convicted for an act done because of a mistake or an accident or other innocent reason.

Knowledge and intent exist in the mind. Since it is not possible to look into a man's mind or a person's mind to see what went on, the only way you have for arriving at a decision in these questions is for you to take into consideration all the facts and circumstances shown by the evidence, including the exhibits, and to determine from all such facts and circumstances whether the requisite knowledge and intent were present at the time in question.

Direct proof is unnecessary. Knowledge and intent may be inferred from all the surrounding circumstances. *As far as intent is concerned, you are instructed that a person is presumed to intend the natural and probable or ordinary consequences of his acts.*

(emphasis added). Counsel objected to this charge, although their objections were hardly a model of specificity.³⁸

The emphasized portion of the judge's charge is substantially identical to the jury instruction declared unconstitutional³⁹ by the Supreme Court in *Sandstrom v. Montana*, 442

³⁸ Besides two general objections to the charge, one attorney mentioned that the instruction "reminded" him of a Supreme Court decision, as well as a recent article on statutory presumptions, and that he felt that the instruction was a deprivation of the "Fifth Amendment right not to have to produce any evidence."

³⁹ The precise language condemned by the Supreme Court in *Sandstrom* was "[t]he law presumes that a person intends the ordinary consequences of his voluntary acts." *Sandstrom v. Montana*, 442 U.S. 510, 513 (1979).

U.S. 510 (1979), which was decided on June 18, 1979, the twenty-seventh day of trial in this case. The appellants argue that use of this instruction was particularly prejudicial because the element of intent is especially important in a RICO conspiracy trial. Without clear instruction on intent, they claim a jury would be unable to separate "guilt by association" from guilt established by the evidence in accordance with the law."⁴⁰

The key to determining whether the instruction operated to deny the appellants' constitutional rights is the actual effect of that charge on the jury. *Id.* at 514; *McInerney v. Berman*, 621 F.2d 20, 23 (1st Cir.), *cert. denied*, 1010 S. Ct. 201 (1980). *Sandstrom v. Montana* holds that the instruction given here, which a reasonable juror could have viewed as a mandatory presumption, 442 U.S. at 515, that was either irrebuttable, or that shifted the burden of persuasion to the defendant on the element of intent, *id.* at 517, was unconstitutional. *Id.* at 524. The Court also mentioned in a footnote that the potential for the jurors adopting either of these interpretations of the presumption was not removed by the other instructions given by the trial judge: that the accused was presumed innocent until proven guilty and that the State had the burden of proving beyond a reasonable doubt that the accused caused the death of the decedent purposely or knowingly. *Id.* at 518 n.7. The Government argues that this comment by the Court "strongly" implies that other specific instructions could have

⁴⁰ In view of the Supreme Court's statement in *Turkette* that the existence of an enterprise and of a pattern of racketeering activity must be separately proven, *United States v. Turkette*, 49 U.S.L.W. 4743, 4745 (June 17, 1981), and our holding in this case that each defendant in a RICO conspiracy case must be charged with agreeing to commit personally at least two predicate crimes, we do not believe that a jury would be placed in such a quandary.

⁴¹ Consideration of the other instructions given at trial in determining the effect of the presumption instruction on the jury is consistent with the view of the Court that "a single instruction to a jury may not be judged in artificial isolation, but must be viewed in the context of the overall charge." *Cupp v. Naughten*, 414 U.S. 141, 146-47 (1973).

cured the effect of the presumption instruction. Cf. *United States v. Spiegel*, 604 F.2d 961, 969 n.15 (5th Cir. 1979), cert. denied, 446 U.S. 935 (1980) (one possible reading of *Sandstrom* could allow other instructions to cure presumption instruction).

Generally speaking, we do not think that the intent instruction as a whole, even when coupled with the trial court's general instructions here that the prosecution always has the burden of proving each element of the crime and that no defendant has the burden of producing any evidence, obviates the possibility that jurors could give the presumption conclusive or persuasion-shifting effect. See 442 U.S. at 519. Therefore, in light of *Sandstrom*, we believe it is always error to instruct the jury that a person is presumed to intend the natural and probable or ordinary consequences of his acts, and we hold that this sort of instruction should not be used. See *United States v. Ariza-Ibarra*, 605 F.2d 1216, 1227-28 (1st Cir. 1979) (cautioning lower court to avoid language that it is ordinarily reasonable to infer person intends natural and probable consequences of acts knowingly done or knowingly omitted).

Nevertheless, in this case we find the error was harmless beyond a reasonable doubt, because it did not contribute to the defendants' convictions.⁴² *Chapman v. California*, 386 U.S. 18, 23, 24 (1967). An error is not harmless if there exists a "reasonable possibility that the evidence [error] complained of might have contributed to the conviction." *Id.* at 23 (quoting *Fahy v. Connecticut*, 375 U.S. 85, 86-87 (1963)); accord, *United States v. Harrigan*, 586 F.2d 860, 863 (1st Cir. 1978) (erroneous instruction on burden of proof not harmless error; instruction may have made difference between acquit-

⁴² The Court in *Sandstrom* refused to decide whether the use of this instruction could constitute harmless error under *Chapman v. California* even if the jury had relied upon it, because the Supreme Court of Montana had not yet considered the issue. 442 U.S. at 526-27. It noted that the state court would be free to consider the issue on remand if it wished. *Id.* at 527.

tal and conviction). The challenged instruction, however, makes no sense in the context of this trial. Despite their objections to the charge, the appellants are not claiming that they did not intend the natural and probable or ordinary consequences of their acts. See *Holloway v. McElroy*, 632 F.2d 605, 618 (5th Cir. 1980) (defendant did not claim he did not intend to shoot victim, but that homicide was justified), *cert. denied*, 49 U.S.L.W. 3881 (May 26, 1981). Rather they deny doing what the Government has alleged that they did: meet Marshall Motors, use the telephone to carry out bribery, downgrade Spread The Word, distribute the proceeds of unlawful activity, cause Ciulla to travel to various states, fix horse races, and the like. In contrast, the defendant Sandstrom admitted that he had killed the deceased. His defense was that he had not intended to do so. If the jury assumed that Sandstrom intended the natural consequences of his act — the death of his victim — it would have had to have found that the defendant acted "purposely or knowingly" and was guilty of deliberate homicide, despite his claim that he was guilty of a lesser crime because he did not act purposely or knowingly. 442 U.S. at 512.

The same pattern may be found in other leading presumption cases. Thus in *Morissette v. United States*, 342 U.S. 243 (1952), the defendant freely admitted removing spent bomb casings to sell as salvage from a federal bombing range. *Id.* at 247. He maintained, however, that he had no intention of stealing, but had thought that the property was abandoned and of no value to the Government. *Id.* at 248. The Court condemned the trial court's supposition that the only question was whether the defendant intended to take the property. The admitted and intentional act of removing the casings was not alone an adequate ground on which the jury could find criminal intent; such intent could only be determined after considering the defendant's testimony and all the circumstances surrounding the act of taking, as well as the act itself. *Id.* at 276; accord, *United States v. United States Gypsum Co.*, 438 U.S. 422, 429-30, 434 (1978) (striking down

charge that if jury found admitted exchanges of price information affected prices, then parties involved presumed as matter of law to have intended that result).

We rule that there was no reasonable possibility that this instruction, which was so ill-sited to both the theory on which the case was tried and the evidence that was presented, contributed to the appellants' convictions. Cf. *United States v. Continental Group, Inc.*, 603 F.2d 444, 464 (3d Cir. 1979) (no error in using this instruction because, unlike use in *Sandstrom*, use here did not relieve burden of proving any element of crime charged), *cert. denied*, 444 U.S. 1032 (1980). Its use, therefore, was harmless error.

OTHER OBJECTIONS TO JURY INSTRUCTIONS

The appellants raise objections to the trial court's jury instructions as they specifically affect their individual cases. We turn now to these contentions.

"Theory of the Case" Instruction.

Martorano and Winter requested the following jury instruction:

[T]he defendant's position is that he was not involved in a conspiracy or scheme to fix horseraces by bribery at various racetracks and to profit therefrom by wagering on the fixed races. It is James Martorano's [Winter's] position that Anthony Ciulla must have falsely testified against him for reasons of his own, such as to obtain his own freedom from imprisonment by providing a target for prosecution other than himself and to obtain money from the Government and publishers.

At a bench conference on requested instructions, the court told Winter's attorney that he intended to give this "theory of the case" instruction "not in your language, as I remember it; but in substance, yes." Based on this assurance, counsel

for both ~~defendants~~ argued to the jury that Ciulla had ~~lied~~ falsified against their clients for his own reasons. They argue now that the trial judge did not give the requested instruction to the jury and that they were entitled to a requested instruction on any defense theory with a foundation in the record.

Whatever the merits of appellants' legal arguments, we agree with the Government that the judge's instruction met their request. He charged the jury:

Now, you have heard testimony that Anthony Ciulla exchanged for testifying truthfully, completely and he has been granted immunity from the government, that I mean, and you have heard testimony to the effect that for testifying fully, truthfully and completely Ciulla will not be prosecuted for any crimes he may have admitted in his testimony here in court, or even out of court.

.....

This testimony should be examined by you with greater care than the testimony of an ordinary witness. You should consider that testimony and whether it is being affected by his personal interest, his personal advantage, any prejudice he might have against a defendant or any personal antagonism he might have. Also, you may consider the record of prior convictions in your evaluation of that witness's testimony; and, after such consideration, you may give the testimony of Mr. Ciulla such weight as you believe it deserves. I will repeat to you that the testimony may be received and considered by you, even though not corroborated by other evidence, and given such weight as you feel it should have. You must, however, keep in mind that the testimony is always to be received with caution and considered with great care.

The judge also gave extensive instructions on assessment of witness credibility,⁴³ as well as an accomplice instruction.⁴⁴

A trial judge is under no obligation to deliver a requested instruction verbatim. *United States v. Irwin*, 593 F.2d 138, 141 (1st Cir. 1979); *United States v. Coast of Maine Lobster, Inc.*, 557 F.2d 905, 909 (1st Cir.), *cert. denied*, 434 U.S. 862 (1977). Rather, the instruction as given must communicate to the jury the substance of the request. 593 F.2d at 140; 557 F.2d at 909. The judge's instructions in this instance clearly conveyed to the jury not only the substance of Martorano's and Winter's request, but also the heart of their theory: that Ciulla had lied for his own benefit. *See* 593 F.2d at 140-41. Martorano and Winter were not prejudiced by the trial court's charge.

In view of our disposition of this issue, we do not reach Martorano's and Winter's argument that they were misled when the trial judge failed to give the requested instruction after assuring them that he would do so.

Character Evidence Instruction.

In addition to testifying himself, Goldenberg called several character witnesses to testify on his behalf. Among them were the director of hotel operations at the Stardust Hotel in Las Vegas, where Goldenberg was employed from April 8,

⁴³ In the course of these instructions, the judge advised the jury that witnesses could be judged by "their bias, their interest, their perception, their memory, their narration, their reputation." He instructed them to "[s]crutinize the witness's intelligence, motive, state of mind, demeanor, candor and fairness. Does the witness have an interest in the outcome of the case? That is not unusual. Most witnesses do. But, if so, does that interest affect the truthfulness of the witness's testimony?"

⁴⁴ As part of this instruction, the court noted that the jury could find that Ciulla had been an accomplice of one or more of the defendants in the case. He instructed the jury that the testimony of such an accomplice "is always to be received with caution and considered with great care."

1968 through October 8, 1974; a lieutenant in the Las Vegas police department, who from August 1974 to August 1977 headed the intelligence unit that gathered information on gambling, and who was, as a result, familiar with Goldenberg's general routine; the Director of Security for the Sheraton Corporation, who also spent 14 of his 26 years as an FBI agent in Las Vegas, and whose tasks from 1973 to 1977 included investigating interstate sports betting and book-making; a retired FBI agent who had been assigned to Las Vegas from 1971 through 1977 and had headed the intelligence squad that gathered gambling information from 1975 to 1977; and an undersheriff of the Las Vegas police department. Goldenberg requested that the judge give the following instruction on character evidence to the jury:

The jury is instructed that evidence of an established reputation for honesty, veracity and integrity may be such to raise a reasonable doubt that will *alone* justify an acquittal. Proof of a good reputation for honesty, veracity and integrity of one indicted for an offense which by his [sic] very nature implies lack of moral rectitude *may well by itself, if believed by the jury, create such a reasonable doubt as to justify acquittal* notwithstanding the convincing nature of other evidence in the case.

(emphasis added). The judge instead instructed the jury as follows:

Next there were character witnesses. There was evidence offered and admitted which tended to show the good reputation of a defendant in his community prior to the indictment in this case. Such evidence may indicate to you that it is improbable that a person of good character would commit the crimes charged, and, therefore, cause you to have a reasonable doubt.

You should consider this evidence along with all of the other evidence in the case in determining the guilt or innocence of the defendant.

Goldenberg argues here that failure to give his requested character instruction, which he asserts was authorized in *Michelson v. United States*, 335 U.S. 469 (1948), was reversible error. In *Michelson* the Court, in the course of deciding the proper scope of cross-examination of a defendant's character witnesses, noted that it had held that:

[A]ffirmative testimony that the general estimate of ... [a defendant's] character is so favorable that the jury may infer that he would not be likely to commit the offense charged ... may be enough to raise a reasonable doubt of guilt ... and a jury in a proper case should be so instructed.

Id. at 416 (citing *Edgington v. United States*, 164 U.S. 361). Leaving aside the question whether *Michelson* may have misread *Edgington*,⁴⁵ the circuit courts, despite this language

⁴⁵ In *Edgington* the Court was considering a charge on good character that instructed the jury that such evidence could be considered only if the rest of the evidence created a doubt about the defendant's guilt. *Edgington v. United States*, 164 U.S. 361, 365-66 (1896). In passing upon this instruction, the Court said:

Whatever may have been said in some of the earlier cases, to the effect that evidence of good character of the defendant is not to be considered unless the other evidence leaves in the mind in doubt, the decided weight of authority now is that good character, when considered in connection with the other evidence in the case, may generate a reasonable doubt. The circumstances may be such that an established reputation for good character, if it is relevant to the issue, would alone create a reasonable doubt, although without it the other evidence would be convincing.

Id. at 366. This is not a holding that an instruction on the effect of good character evidence "standing alone" must be given, see *Michelson v. United States*, 335 U.S. 469, 476 (1948), and, as the Ninth Circuit pointed out, *Edgington* was striking down a limitation on the use of character evidence, not requiring "that the lack of limitation must be expressly pointed out to the jury." *Carbo v. United States*, 314 F.2d 718, 746 (9th Cir. 1963), cert. denied, 377 U.S. 959 (1964); cf. *Black v. United States*, 309 F.2d 331, 344 (8th Cir. 1962) (nothing in *Michelson* inconsistent with interpreting *Edgington* as not requiring "standing alone" instruction), cert. denied, 372 U.S. 954 (1963).

in *Michaleon*, have split on the permissibility of a good character "standing alone" charge. Some circuits allow such a charge, at least under certain circumstances. See, e.g., *United States v. Callahan*,⁴⁶ 588 F.2d 1078, 1085 (5th Cir.), cert. denied, 444 U.S. 826 (1979); *United States v. Lewis*, 482 F.2d 632, 637 (D.C. Cir. 1973); *Oertle v. United States*, 370 F.2d 719, 726-27 (10th Cir. 1966) (in banc), cert. denied, 387 U.S. 943 (1967); *United States v. Donnelly*, 179 F.2d 227, 232 (7th Cir. 1950); cf. *United States v. Foley*, 598 F.2d 1323, 1337 (4th Cir. 1979) (declining to hold that "standing alone" instruction could never be required; not required when defendants did not rely solely on character evidence for their defense), cert. denied, 444 U.S. 1043 (1980). Other circuits

⁴⁶ But see *United States v. Fontenot*, 483 F.2d 315, 323 (5th Cir. 1973) (rejecting claim that "standing alone" instruction must be given; charge that character evidence should be considered along with all other evidence proper). The defendant in *Callahan* did not request a "standing alone" charge, but argued on appeal that the instruction given implied to the jury that it was to disregard good character if other evidence pointed to guilt. *United States v. Callahan*, 588 F.2d 1078, 1084 (5th Cir.), cert. denied, 444 U.S. 826 (1979). The opinion actually cited *Fontenot* in the course of discussing another recent Fifth Circuit precedent, *United States v. Leigh*, 513 F.2d 784 (5th Cir. 1975), which noted that an instruction that good reputation alone may create a reasonable doubt on guilt more than met the "minimum content instruction" in that circuit that such evidence, considered with all other evidence, may create such reasonable doubt. *Id.* at 785 (citing *United States v. Fontenot*, 483 F.2d 315, 323 (5th Cir. 1973)). In another case in this area, *United States v. Furr*, 528 F.2d 578 (5th Cir. 1978) (per curiam), the Fifth Circuit said that a charge that stated that reputation evidence alone could create a reasonable doubt was a component of the instruction held not to be plainly erroneous in *Fontenot*. *Id.* at 579. In *Fontenot*, of course, one of the bases for defendant's objections was that the charge did not include the standing alone language, but emphasized that this evidence was to be considered along with all the evidence in the case. 483 F.2d at 323. It should be noted that the propriety of using the "standing alone" terminology was not precisely at issue in either *Furr* or *Leigh*; in each case the trial judge had instructed the jury that character evidence alone could create a reasonable doubt.

have rejected the use of this instruction. See, e.g., *United States v. Fayette*, 388 F.2d 728, 737 (2d Cir. 1968); *Carbo v. United States*, 314 F.2d 718, 746-47 (9th Cir. 1963), cert. denied, 377 U.S. 953 (1964); *Black v. United States*, 309 F.2d 331, 343-44 (8th Cir. 1962), cert. denied, 372 U.S. 934 (1963).

Unfortunately for Goldenberg, this circuit has placed itself in the latter camp. See *United States v. Lachmann*, 469 F.2d 1043, 1046 (1st Cir. 1972), cert. denied, 411 U.S. 931 (1973). Although the *Lachmann* opinion did not specifically state what instruction the defendant in that case wanted, its citation of many of the leading cases on the subject and its disapproval of the opposing doctrine as set forth in *Oertle v. United States*, 370 F.2d at 726-27, indicate that this circuit has decided that the instruction requested by Goldenberg need not be given. *Lachmann* found the trial court's instruction to consider the "evidence concerning the defendant's reputation for honesty . . . together with all the other evidence in the case, in determining the guilt or innocence of the defendant," to be "quite sufficient." *Lachmann* at 1046 & n.3. We reiterate our disapproval of the *Oertle* line of cases. We do not think it the proper function of the trial judge to instruct the jury as to the weight it can or may give to any particular evidence that it believes. Rather, it appears to us to be a usurpation of the jury's special function. The charge in *Lachmann* that "you should consider this evidence and give it such weight as you believe it deserves," *id.*, was, in our opinion, clearly correct. We doubt that under the *Oertle* doctrine Goldenberg would have been entitled to a good character "standing alone" charge. We are certain that under the law of this circuit the district court did not err in refusing to instruct the jury that character evidence alone may raise a reasonable doubt as to guilt.

Goldenberg also claims that the trial judge's charge failed to satisfy even the *Lachmann* standard, because it instructed the jury to consider character evidence along with all other evidence in the case in determining guilt or innocence. He

theorizes that this might have suggested to the jury that it was required to dilute the reasonable doubt raised by the character evidence (if any such doubt was raised) with incriminating evidence. He argues that insisting on this standard is not the same as insisting on a "standing alone" instruction.

Not only does this argument signal that Goldenberg has missed the point of the *Lachmann* line of cases, it also indicates that he has not read the *Lachmann* opinion itself very closely. The trial judge in *Lachmann* told the jury that

evidence concerning the defendant's reputation for honesty should be considered by you, *together with all the other evidence* in this case, in determining the guilt or innocence of the defendant. If, *when considered with all the other evidence* presented during this trial, it creates a reasonable doubt in your mind as to the guilt of the defendant, you should find him not guilty.

469 F.2d at 1046 n.8 (emphasis added). Appellant's dilution contention is frivolous.

OTHER CLAIMS OF ERROR

The appellants raise several other objections to rulings by the court below. We now consider those claims that merit discussion.

Severance and Transfer.

Price and Goldenberg claim that they were improperly joined and that their cases should have been severed and transferred to Las Vegas, Nevada. We have already concluded that their initial joinder was proper.⁴⁷ We also find that they were not entitled to a severance under Federal Rule

⁴⁷ See n.31 *supra* and accompanying text.

of Criminal Procedure 14.⁴⁸ To prevail on this claim before the trial judge, Price and Goldenberg were required to "make a 'strong showing of prejudice' likely to result from a joint trial"; the denial of such a motion may be overturned only if an abuse of discretion is shown. *United States v. Thomann*, 609 F.2d 560, 564 (1st Cir. 1979); *United States v. Luna*, 585 F.2d 1, 4-5 (1st Cir.), *cert. denied*, 439 U.S. 852 (1978). Neither the fact that Price's and Goldenberg's involvement in the scheme was not as extensive as that of Winter and Martorano nor their claims that they would be prejudiced by vast amounts of testimony pertinent to other defendants, but not to them, is sufficient, "either separately or in combination, to render denial of severance an abuse of discretion." *United States v. Smolar*, 557 F.2d 13, 21 (1st Cir.), *cert. denied*, 434 U.S. 866, 966, 971 (1977). The Seventh Circuit, in a case cited by Goldenberg, has stated that a defendant is not entitled to a separate trial only because it would provide him or her with a better chance of acquittal; a severance is mandated only when the defendant will otherwise be denied a fair trial. *United States v. Alpern*, 564 F.2d 755, 758 (7th Cir. 1977); see *United States v. Calabrese*, 645 F.2d 1379, 1385 (10th Cir. 1981). Assuming that the trial judge was swayed by considerations of judicial economy, as Price and Goldenberg claim, such considerations are relevant when there is a reasonable assurance that the defendants will receive a fair trial if not severed. *United States v. Boscia*, 573 F.2d 827, 833 (3d Cir.),

⁴⁸ This rule provides:

Rule 14. Relief from Prejudicial Joinder

If it appears that a defendant or the government is prejudiced by a joinder of offenses or of defendants in an indictment or information or by such joinder for trial together, the court may order an election or separate trials of counts, grant a severance of defendants or provide whatever other relief justice requires. In ruling on a motion by a defendant for severance the court may order the attorney for the government to deliver to the court for inspection *in camera* any statements or confessions made by the defendants which the government intends to introduce in evidence at the trial.

cert. denied, 436 U.S. 911, 439 U.S. 854 (1978). Appellants received such a trial here.

Nor do we think that the trial judge improperly denied Price's and Goldenberg's motions for transfer under Federal Rule of Criminal Procedure 21.⁴⁹ Turning first to their motions to transfer under Rule 21(b), we note that the trial court's decision to deny a change in venue is reviewable under the abuse of discretion standard. *United States v. Calabrese*, 645 F.2d at 1384; Wright § 344 at 637. Despite the distance between Las Vegas and Boston, Price and especially Goldenberg were able to call many witnesses from Nevada to testify on their behalf. The other defendants lived in New England, as did many of the Government's witnesses, and even some of Goldenberg's witnesses. (It is not clear where Tildsley, who was convicted but has not appealed, resided.) Obviously, to grant Price's and Goldenberg's motions for transfer would in effect grant their motions for a severance. The trial judge did not abuse his discretion in refusing to transfer the case under Federal Rule of Criminal Procedure 21(b).

As a final variation on this theme, Price and Goldenberg claim that the trial judge was presented not just with a discretionary invocation of Rule 21(b), but with a question of constitutional dimensions, stemming from the nature of the

⁴⁹ This rule provides in pertinent part:

Rule 21. Transfer from the District for Trial

(a) For Prejudice in the District. The court upon motion of the defendant shall transfer the proceeding as to him to another district whether or not such district is specified in the defendants' motion if the court is satisfied that there exists in the district where the prosecution is pending so great a prejudice against the defendant that he cannot obtain a fair and impartial trial at any place fixed by law for holding court in that district.

(b) Transfer in Other Cases. For the convenience of parties and witnesses, and in the interest of justice, the court upon motion of the defendant may transfer the proceeding as to him or any one or more of the counts thereof to another district.

charges and their gambling-oriented backgrounds. In support of their position, they present the novel theory that denial of their motions violated their right to a jury selected from a fair cross-section of the community, because Massachusetts jurors would attach a stigma of illegality to Goldenberg's and Price's employment in the gambling industry, but Nevada jurors would not. Moreover, jurors selected from a community such as Nevada, which has accepted gambling as a matter of public policy, would be better able than jurors drawn from Massachusetts to assess the Government's theory of illegal gambling. Trial in Boston, they claim, inevitably caused an irremediable flaw in the jury selection process: the systematic exclusion of "persons with a familiarity with the gambling motif."⁵⁰ This argument is groundless as well as ridiculous. This case involves the "sport of kings" with which even the puritanical citizens of Massachusetts are familiar, some even to the point of addiction. We are concerned here not just with gambling, but with fixing races so that the element of chance is entirely eliminated. We would suspect that the defendants' approach to horse racing would be as offensive to the citizens of Nevada as to those of Massachusetts if not more so, because Nevada's main source of income derives from those who believe that they have a chance to win, be it at the roulette table or the race track.

Refusal to Admit Polygraph Evidence.

Price contends that the trial judge committed reversible error by refusing to allow him to present polygraph evidence to support his credibility against Ciulla's. Without deciding whether a *per se* prohibition against the use of lie detector tests is appropriate, we find that the trial judge acted within his discretion in refusing to admit such evidence in this case. See *United States v. Truong*, 629 F.2d 908, 930 n.27 (4th Cir. 1980) (no need to pass on admissibility of unstipulated lie

⁵⁰ Neither Goldenberg nor Price has challenged the selection of the jury on federal statutory grounds. See 28 U.S.C. § 1867.

detector test results because district judge did not abuse discretion by excluding them in this case).

Allegation of Prosecutorial Misconduct.

Before the trial began, appellant Price filed a motion to suppress his grand jury testimony of April 13, 1978, on the grounds that the Assistant United States Attorney prosecuting the case misled Price into waiving his constitutional rights and testifying before the grand jury by informing him that he was not a target of the grand jury investigation when he was, and failed to keep his commitment that Price would not be indicted if he testified before the grand jury unless evidence to corroborate Ciulla's testimony about him subsequently developed. Price claims that if his attorney had known that his client was a target, he would "undoubtedly" have urged Price to claim his privilege against self-incrimination or possibly have requested use immunity for him in exchange for his cooperation with the Government.

The Government did not use this testimony in its case-in-chief. Price, however, claims that his testimony was "undoubtedly used" to refresh Ciulla's memory before he testified before the grand jury that indicted Price in February 1979. He argues that because this testimony was developed through exploiting testimony unfairly obtained from him, it would not be used against him.

The trial judge conducted a lengthy pretrial hearing on this issue, permitting one of Price's attorneys to examine his co-counsel, the prosecutor, and the FBI agent assigned to the case. Following the hearing, the judge denied the motion. In a written opinion he concluded that: (1) Price was not a "target" when he appeared before the grand jury; (2) the Government did not have a sufficient basis for an indictment until it had received further evidence following Price's grand jury testimony; (3) Price was not misled, deceived, or trapped into testifying before the grand jury and his privilege not to testify was not impaired by the prosecution's conduct.

Because Price has raised what is essentially a due process claim, the key inquiry is not whether Price was technically a target, but whether the prosecutor either actually misled Price and his attorney about Price's status or made and then broke a commitment not to ask for Price's indictment unless he obtained evidence to corroborate Ciulla's story. Price's attorney testified that the prosecutor advised him by phone that, although Ciulla had furnished the Government with information concerning Price's alleged involvement in this scheme, he did not regard Price as a target and that "in no way would Price be indicted." The prosecutor, who produced a signed summary of this conversation that he had prepared at the end of the phone call, testified that, when asked, he told Price's attorney that he did not consider Price to be a target, but that he did consider him to be a subject.⁵¹ He denied ever telling Price's lawyer that Price would not be indicted or that he would not be indicted solely on the basis of Ciulla's testimony. He also testified to a brief conversation with Price's attorney outside the grand jury room on the day that Price testified, during which he told Price's counsel that he would inform Price that he was a subject, not a target.

Before Price testified, the Assistant United States Attorney warned him that he had a fifth amendment right to refuse to answer questions or to produce personal documents

⁵¹ The prosecuting attorney testified that when defense counsel asked him if he viewed Price as a target, he responded "that target had a very technical meaning to me as defined in the United States Attorney's manual, and at ... [that] time I did not consider Mr. Price a target but I did consider him to be a subject."

The guidelines mentioned were not made part of the record in this case. In *In re Angiulo*, 579 F.2d 104 (1st Cir. 1978), we discussed the 1977 guidelines given to United States Attorneys, noting that "target" was defined as "a person as to whom the prosecutor or the grand jury has substantial evidence linking him to the commission of a crime and who, in the judgment of the prosecutor, is a putative defendant" and that "subject" was defined as "a person whose conduct is within the scope of the grand jury's investigation." *Id.* at 105 n.1 (quoting guidelines).

that might tend to incriminate him, that any such answers or documents could be used against him in a court of law, that he had a right to an attorney, and a right to consult with that attorney outside the grand jury room at reasonable intervals. The prosecutor ascertained for the record that Price's attorney was out in the hall. He then stated:

Prosecutor: Okay. Now I also want to indicate to you, sir, that you are not a target of the Grand Jury. That means that you are not subpoenaed —

Price: I understand.

Prosecutor: Well, I want to explain on the record anyway. You are not subpoenaed here today because there is evidence at this particular point in time which is being entertained by the Grand Jury upon which could be sought an indictment of you; however, your name, in the activities that Mr. Ciulla and others are in, specifically, as they relate to Las Vegas, has come up in the Grand Jury investigation. That is why you are here. You understand that?

Price: Yes.

Unfortunately, as he later admitted in his testimony at the suppression hearing, the prosecutor did *not* inform Price that he was a subject. Nevertheless, we do not believe that under the circumstances presented here, Price could possibly have been misled into waiving his rights. Although the term "subject" was not specifically used, Price was warned that, although the grand jury was not considering evidence upon which he could be indicted "at . . . [that] particular point," his name had come up in the grand jury investigation in connection with the activities of Ciulla and others in Las Vegas. His counsel, whom the district court found had been informed that Price was considered a subject, remained in the corridor outside the grand jury room while Price was being examined,

and Price consulted with him during the examination on another point.

The prosecutor's other warnings more than fulfilled any constitutional requirement, especially because "potential-defendant warnings add nothing of value to protection of Fifth Amendment rights." *United States v. Washington*, 431 U.S. 181, 189 (1977); cf. *United States v. Crocker*, 568 F.2d 1049, 1056 (3d Cir. 1977) (although assistant United States attorney may have misled defendant's attorney by suggesting defendant not a target when he appeared before grand jury, statement not a due process violation when Supreme Court had held he need not say anything).

The trial court did not decide whether the prosecutor had made any promises to Price about whether or not he would be indicted on the basis of Ciulla's grand jury testimony. Instead he considered the evidence adduced at the hearing to conclude that Price was not a target when he appeared before the grand jury, but that later-discovered evidence supported Ciulla's information and formed a sufficient basis for Price's indictment. We do not find it necessary to reach this issue, because we do not believe that Price has satisfied by the preponderance of the evidence his burdens as moving party of production and persuasion on the issue of whether an agreement was made. See, e.g., *Franks v. Delaware*, 438 U.S. 154, 156 (1978) (if hearing is held on truthfulness of factual statement in affidavit supporting warrant, defendant must establish contention by preponderance of evidence); *United States v. Dall*, 608 F.2d 910, 914, 915 (1st Cir. 1979) (defendant has burden on motion to suppress of proving his fourth amendment rights violated and that he had legitimate expectation of privacy), cert. denied, 445 U.S. 918 (1980); *United States v. Evans*, 572 F.2d 455, 486 (5th Cir.) (in hearing on illegality of seizure of records, burden on movant to make specific factual allegations of illegality, to produce evidence, and to persuade court evidence should be suppressed), cert. denied, 439 U.S. 870 (1978). Since his evidence is legally in-

sufficient to establish the existence of an agreement made by the prosecutor, we dismiss Price's argument that the prosecutor did not keep it.

As we have noted, Price's testimony before the grand jury was not used in the Government's case-in-chief; Price claims only that it was "undoubtedly used to refresh the recollection of Ciulla," after which Ciulla explained his activities in Las Vegas more fully. This testimony is said to have been the basis on which Price was indicted. Price, however, offered no evidence that his testimony was, in fact, used to refresh Ciulla's memory. In contrast, the Assistant United States Attorney testified specifically that he never communicated directly or indirectly to Ciulla the contents or substance of Price's grand jury testimony, and had no knowledge of any agents investigating the case doing so. In view of Price's inability to establish that Ciulla even learned of his grand jury testimony, we find his claim of prosecutorial misconduct tenuous indeed.

Goldenberg's Claim of Error for Permitting Use of Wiretap on Cross-Examination.

To understand Goldenberg's argument on this issue, its factual background must be outlined. A telephone conversation to which Goldenberg was a party was intercepted under authorization of the United States District Court for the District of Rhode Island. It is not clear whether Goldenberg was provided with an inventory of the intercept pursuant to 18 U.S.C. § 2518(8)(d)⁵²; the Government claims that one was sent to him; he claims that he did not receive it because it was sent to the wrong address.

Prior to trial, Goldenberg moved that the Government be ordered to affirm or deny the existence of any intercepts, and

⁵² Under *United States v. Harrigan*, 557 F.2d 879, 884 (1st Cir. 1977), Goldenberg must show actual incurable prejudice arising from a violation of this section of the statute in order to have an intercept suppressed. No such showing has been made.

if affirmed, that the Government be ordered to divulge their contents. The motion also asked that the Government affirm or deny whether such intercepts originated in proceedings relating to the indictment and whether or not the Government intended to offer the intercepts in its case-in-chief, cross-examination, or rebuttal. The magistrate denied the motion "except to the extent that the attorney for the Government shall simply state, if he has not done so already whether or not he is aware of any such electronic surveillance?" The Government replied by stating that no such surveillance would be used in the case-in-chief. Goldenberg then requested a copy of any intercept that the Government intended to use other than in the case-in-chief. The Government did not respond.

During the trial, but before he started to testify, Goldenberg made an anticipatory objection to the use of the interceptions on the ground that the Government had failed to comply with 18 U.S.C. §§ 2517 and 2518(5) and (8)(b) (claims not pressed on appeal), and that no order from the district court authorizing the wiretap had been obtained. At the start of the cross-examination of Goldenberg there was a lengthy bench conference concerning the use of the intercepts. Goldenberg claimed that using them for any purpose was prohibited by 18 U.S.C. § 2518(9),⁵³ because he had not been furnished "with a copy of the court order and accompanying application, under which the interception was authorized and approved" at least 10 days prior to trial. In

⁵³ Under 18 U.S.C. § 2518(9):

(9) The contents of any wire or oral communication intercepted pursuant to this chapter or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in a Federal or State court unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This ten-day period may be waived by the judge if he finds that it was not possible to furnish the party with the above information ten days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving such information.

reply, the Government stated that it had a transcript of a conversation between Goldenberg and a Rhode Island bookmaker intercepted in Rhode Island. During this conversation, the two exchanged betting information. Because Goldenberg had stated emphatically on direct examination that he had had nothing to do with illegal bookmaking, the Government attorney stated that he intended "to cross-examine him, not introduce the tape in evidence, but cross-examine him as to the fact he had such a conversation. If he continues to deny it, then, on rebuttal the Government will introduce the wiretap." The cross-examination was allowed; Goldenberg admitted that he had had such a conversation, but denied knowing that the person was a bookmaker. On redirect examination, Goldenberg's attorney put the transcript of the intercept in evidence.

The main thrust of Goldenberg's argument on appeal is that any questioning about the intercepted conversation was improper because of the Government's failure to comply with 18 U.S.C. § 2518(9). As noted, this section specifically provides that "the contents of any wire or oral communication intercepted pursuant to this chapter or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial" unless each party has been furnished with a copy of the court order and accompanying application under which the authorization was approved, not less than 10 days before trial. 18 U.S.C. § 2518(9). The judge may waive this requirement if notice could not be given and the party was not prejudiced by the delay. *Id.* The Government does not claim that it fulfilled this statutory requirement.

The 10-day notice period provided by § 2518(9) is designed to give an aggrieved party such as Goldenberg the opportunity to make a motion to suppress. S. Rep. No. 1097, 90th Cong., 2d Sess., reprinted in 1968 U.S. Code Cong. & Ad. News 2112, 2195 (discussing original §§ 2518(9) and (10)(a), which are virtually identical to successor sections in effect at time of trial.) Although Goldenberg claims he suffered "ex-

treme prejudice" from not receiving the statutory notice, he has not pointed out what that prejudice was, and we can perceive none. Goldenberg clearly knew the sort of information that the Government had, that it stemmed from a Rhode Island wiretap made in the course of an ongoing investigation, that the district court in Rhode Island had impounded the relevant documents, and that the Government intended to use the intercepted conversation for purposes of impeachment if Goldenberg's testimony on direct examination made such a inquiry relevant. Yet Goldenberg made no explicit motion to suppress the intercepted testimony under the statute. Moreover, the judge's permitting the evidence to be used for cross-examination could be viewed as an implicit waiver of the 10-day notice requirement. *See Furtado v. Bishop*, 604 F.2d 80 (1st Cir. 1979), *cert. denied*, 444 U.S. 1035 (1980). Until Goldenberg's testimony, the intercept was not even arguably relevant; the legislative history specifically states that even a motion to suppress, if filed, is not a bill of discovery for the defendant. *Id.* at 2196. We believe that any technical violation of 18 U.S.C. § 2518(9) did not prejudice Goldenberg in any way.

In any event, the interception, even if not legally authorized, could be used for impeachment purposes. It is now firmly established that illegally obtained evidence may be used to impeach a defendant on cross-examination. *See United States v. Havens*, 446 U.S. 620, 627-28 (1980); *Oregon v. Hass*, 420 U.S. 714, 717-18 (1975); *Harris v. New York*, 347 U.S. 62, 65 (1971); *Walder v. United States*, 347 U.S. 62, 65 (1954).

Moreover, our reading of the transcript of the intercept shows that it was ambiguous at best: it could have been interpreted either as corroborative or contradictory of Goldenberg's testimony or as being of no consequence.

We also reject Goldenberg's claim that he was prejudiced by the Government's failure to reveal this same information in response to the magistrate's pretrial order that evidence of bad acts which the Government intended to use in its case-in-

chief be disclosed to Goldenberg in camera. The order was not evaded; the only evidence of bad acts came from the intercept which, as already discussed, was used only for impeachment on cross-examination.

The Post-Trial Motions for a New Trial.

Unfortunately the end of the trial did not silence Ciulla. Within three days of the verdict, the Boston Globe had interviewed him and published an article based on that interview. Appellants all brought motions for a new trial, to which the newspaper article was attached, alleging that Ciulla had perjured himself at the trial; appellants requested an evidentiary hearing on the motions. The district court, after hearing extensive arguments including a detailed offer of proof, denied the motions without an evidentiary hearing. Appellants claim that they were entitled to an evidentiary hearing on the new trial motions.

We think it clear that the standard for review is abuse of discretion. *United States v. Zannino*, 468 F.2d 1299, 1303 (1st Cir. 1972), cert. denied, 410 U.S. 954 (1973). Even if, however, we were to accept appellants' argument that somehow the requirements of 28 U.S.C. 2255 applied, an evidentiary hearing would not be mandated.

[I]f the claim is based upon facts with which the trial court, through review of the record or observation at trial, is familiar, the court may make findings without an additional hearing, and, as is the case for findings of the trial court generally, those findings will not be overturned unless they are clearly erroneous.

United States v. DiCarlo, 575 F.2d 952, 954-55 (1st Cir.), cert. denied, 439 U.S. 834 (1978).

The district court had just finished a forty-six day jury trial at which Ciulla was the principal witness. It had the newspaper article before it. An evidentiary hearing would not have increased the court's grasp of the facts and the issues.

We have read the article and, based on what is by now an intimate knowledge of the transcript, agree with the Government that it does not show or tend to show that Ciulla lied on the witness stand. At best it would have minimal impeachment value. It was neither an abuse of discretion nor clearly erroneous for the district court to deny the motions for a new trial without an evidentiary hearing.

CONCLUSION

We have considered all of the other objections raised by appellants and do not feel that they merit discussion. "A defendant is entitled to a fair trial but not a perfect one." *Lutwak v. United States*, 344 U.S. 604, 619 (1953).

The convictions of Howard T. Winter, James Martorano, Melvin Goldenberg, and Elliot Paul Price are affirmed.

The convictions of James DeMetri and Charles DeMetri are reversed.

United States Court of Appeals
For the First Circuit

⁸⁰
No. 81-1831

UNITED STATES OF AMERICA,
APPELLEE,

v.

JAMES MARTORANO,
DEFENDANT-APPELLANT.

No. 80-1832

UNITED STATES OF AMERICA,
APPELLEE,

v.

CHARLES DEMETRI & JAMES DEMETRI,
DEFENDANTS-APPELLANTS,

No. 80-1833

UNITED STATES OF AMERICA,
APPELLEE,

v.

HOWARD T. WINTER,
DEFENDANT-APPELLANT.

No. 80-1834

UNITED STATES OF AMERICA,
APPELLEE,

v.

ELLIOT PAUL PRICE,
DEFENDANT-APPELLANT.

No. 80-1846

UNITED STATES OF AMERICA,
APPELLEE,

v.

MELVIN GOLDENBERG,
DEFENDANT-APPELLANT.

APPEALS FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
[HON. A. DAVID MAZZONE, U.S. District Judge]

Before
CAMPBELL, BOWNES and BREYER, Circuit Judges.

Albert F. Cullen, Jr. and Richard Egbert, with whom Cullen & Wall was on brief, for appellants Howard T. Winter and James Martorano.

Jeffrey M. Smith, Joseph Travalline, and Morris M. Goldings, with whom Paul T. Smith, Harvey R. Peters, Barry Haight, Hawkes & Goldings, Jeanne Baker, and Baker & Fine were on brief, for appellants Charles Demetri & James Demetri, Elliot Paul Price, and Melvin Goldenberg.

Robert M. Waller, Special Attorney, Department of Justice, with whom Edward F. Harrington, United States Attorney, was on brief, for appellee.

October 30, 1981

and Jeremiah T.
O'Sullivan, Special
Attorney, Department
of Justice

BOWNES, Circuit Judge. After conviction and sentencing, appellants brought motions for a new trial and an evidentiary hearing thereon based on the alleged suppression of exculpatory material and the discovery of new evidence. These motions have an entirely different basis than did those whose denial we affirmed in cases Nos. 79-1437, 1438, 1441, 1442, 1446 and 1476. The motions now before us, brought pursuant to Federal Rule of Criminal Procedure 33, were filed between August and October of 1980. Oral argument was heard by the district court on November 17 and on December 12, 1980, it issued a written memorandum and order denying appellants an evidentiary hearing and their motions for a new trial.

The evidence which appellants claim entitled them to a new trial can best be considered by separating it into four segments. The "Detroit Information" consists of several FBI reports of interviews with Anthony Ciulla conducted in 1976, 1977 and 1978 relative to race fixing in the Detroit, Michigan,

area and Ciulla's grand jury testimony in Detroit on October 7, 1977, on the same subject. The "McCarron" material is based on affidavits by Margaret McCarron which appellants claim shows that Ciulla lied at the trial. The "Owen" evidence purports to prove that Robert Owen, who pled guilty during the trial, told his attorney that Ciulla had told him (Owen) that he (Ciulla) had lied about the role defendants Price and Goldenberg had played in the race fixing schemes. Appellants also make a "Mesarosh" claim based on the fact that the strike force attorney assigned to the Eastern District of New York did not use Ciulla as a witness in a race fixing case held in that jurisdiction.

I. THE DETROIT INFORMATION.

The first question is whether this material falls within the compass of *United States v. Agurs*, 427 U.S. 97 (1976), and, if so, which of the three *Agurs*' categories applies. We find that all of the Detroit information, the FBI 302's and the grand jury testimony was exculpatory material within the scope of *Agurs*.¹ It involved "the discovery, after trial, of information which had been known to the prosecution but unknown to the defense." *Id.* at 103. It seems clear, however, that the first two *Brady** situations, as defined in *Agurs*, do not apply. We reject the appellants' insistent and repeated claims that the Detroit material shows that Ciulla perjured himself and that the Government knew or should have known it. *Id.* at 103. Nor do we think that there was a specific pretrial request for the material. *Id.* at 104. Contrary to appellants' assertions we find no support in the record for the claim that either the magistrate or the district court ordered the material, or any part of it, disclosed to defendants prior to trial.

¹ Although the district court did not specifically cite to *Agurs* in this section of its opinion, it did use the correct *Agurs* test. The Government does not seriously dispute the application of *Agurs*; its argument is directed mainly to materiality.

* *Brady v. Maryland*, 373 U.S. 83 (1963).

The motions for exculpatory evidence, although lengthy and comprehensive, were not directed to any particular source; they were basically detailed boiler plate requests for any and all exculpatory evidence. We are, therefore, confronted with the general request situation, the third category discussed in *Agurs*. See *United States v. DiCarlo*, 575 F.2d 952, 958-60 (1st Cir.), cert. denied, 439 U.S. 834 (1978); *United States ex rel. Moore v. Brierton*, 560 F.2d 288, 292 (7th Cir. 1977), cert. denied, 434 U.S. 1088 (1978). We do not think that the fact that the United States Attorney prosecuting this case asked an attorney on the Detroit Strike Force whether there was any exculpatory material in the Detroit files and received a negative reply avoids the impact of *Agurs*. The prosecutor in charge of this case had a positive duty to review the files himself or have them checked by someone thoroughly familiar with the case. Nor do we think that *Agurs* is avoided because the Detroit grand jury testimony of Ciulla was turned over to the court during the trial for an in camera inspection. The *Brady* motions were made prior to trial and the judge should have been apprised of the existence of the testimony before trial so he could have examined it, if he wished. Although it probably made no difference in this case, there may be cases in which a pretrial in camera inspection of alleged *Brady* material would expedite matters considerably.

We now evaluate the Detroit material in the context of the entire record to determine if the omitted material creates a reasonable doubt that did not otherwise exist. *United States v. Agurs*, 427 U.S. at 112; *United States v. Imbruglia*, 617 F.2d 1, 5 (1st Cir. 1980).

The 302's

Appellants first contend that Ciulla's statement, made prior to his formal interviews, that he would not provide information about his organized crime connection in the Boston-

New England area is materially exculpatory because it undercuts the Government's theory that Winter was an organized crime figure in the Boston-New England region. According to the FBI preliminary report, Ciulla "would not talk about the Boston La Cosa Nostra (LCN) for three reasons. First, he would be killed if he talked. Secondly, even if placed in Federal protective custody, his family would be exposed to retaliation and thirdly, he was not associated close enough to provide information that would result in convicting any one person." We note that the first two reasons, which imply significant knowledge, contradicts the third, which asserts ignorance. However that may be, the fact is that there was no testimony in the case by Ciulla, or anyone else, that Winter was a member of the organized crime syndicate in New England. Indeed, at defendants' request the district court ruled at the start of the trial that it would not allow "[a]ny reference to mafia, Cosa Nostra, or organized crime by that name." Nor did Ciulla refer to Winter in the Detroit 302's. Although it is conceivable that the jury would infer that only an organized crime figure would retain a person such as Ciulla to fix horse races, we agree with the district court that it was extremely unlikely that the defendants would have tried to impeach Ciulla by showing that Winter was a member of organized crime in the Boston-New England area. And even if they did, Ciulla could have said that he changed his mind since making the statement, which he did, if Winter was in fact, as appellants suggest, an organized crime figure in New England. We find that Ciulla's preliminary statement to the FBI in Detroit falls far short of being material under the applicable *Agurs* standard.

In addition to describing in detail race fixing in the Detroit area, Ciulla also told the FBI that in 1974 his "biggest score" was made at the Pocono Downs racetrack in Wilkes-Barre, Pennsylvania. Appellants contend that the 302 information relative to Pocono Downs contradicts his course testimony about fixing races there. We find no significant contradiction.

tions. In the FBI statement Ciulla said he fixed sixty races, one to two a day, during the 1974 racing season. Ciulla's trial testimony focused on only four races: the ninth race on August 12, the sixth race on August 18, the fourth race on August 20 and the third race on September 8. This leaves at least fifty-six other races in which the appellants were not implicated. Ciulla testified that he went to Pocono Downs for two reasons: to try to get Spread The Word into a claiming race, which was not accomplished, and because Robert Owen² told him that he could fix as many races a day as he wanted. When Ciulla called Winter to tell him that the ninth race was fixed, he testified that he also told Winter that he realized that because it was Pocono Downs, the outside betting activity would be limited. It is not inconceivable that Ciulla and Owen decided to keep the winnings for themselves on all but four of the sixty races that were fixed.

Ciulla's 302 statement arguably contradicts his courtroom testimony in only one respect. He told the FBI that three members of the Pittsburgh and Philadelphia mob, Occhipinti, Sciandra and Conancio, financed the Pocono Downs fixing. At the trial Ciulla described this trio as "runners." Although this might have been explored on cross-examination, we note that, according to Ciulla, the DeMetris acted as runners in the race at Garden State on February 8, 1975, in which Spread The Word was entered. It is not implausible that the financiers also acted as runners.

It is important to point out that the Pocono Downs evidence only implicated Winter and Martorano. The DeMetris were not involved at all and the motions of Price and Goldenberg for judgments of acquittal as to Counts Thirty-Seven and Thirty-Nine, interstate travel involving Pocono Downs, were granted. Nothing in the FBI statement contradicts Ciulla's testimony that he called Winter and Martorano after each of the four races was fixed and told them what horse to bet.

² Owen pled guilty during the trial.

Nothing in the 302 contradicts Ciulla's testimony that Winter told him to beat up a trainer, Ewalt, for using his bribe money to bet on the fixed race and to beat up a jockey, Gallop, for not holding his horse which finished second in the third race on September 8. We do not think that the statements given to the FBI about Pocono Downs reached the *Agurs*' level of materiality.

Price and Goldenberg argue strenuously that the 302's and the grand jury testimony show that Ciulla had Las Vegas contacts through the people who were financing the Detroit fixing and, therefore, Price and Goldenberg were not needed for outside betting as he testified at trial. But neither the 302's nor the grand jury testimony show that Ciulla himself knew individuals in Las Vegas who would play the role that he testified Price and Goldenberg did in placing bets on fixed races with bookies throughout the country. Before the Detroit grand jury, Ciulla testified that his financiers were Niki Russo, Anthony Tassone and his son, Jimmy Tassone. He told the grand jury that they were the ones who would take care of the extensive outside betting in Las Vegas. This does not show that Ciulla himself had the Las Vegas contacts. We agree with the district court that the impeachment weight of this evidence was slight. We do not doubt that, in the words of appellants, "in the hands of skilled counsel at trial, [this would have] opened up a rich vein of detail." But the vein would not have led to the mother lode; it would have petered out to nothing.

Finally and definitely least, we discuss the claim that Ciulla's statements in the 302's and to the grand jury about how he "suckered greedy businessmen" out of "front" money contradicts his cross-examination testimony that he had not been a tout "at any time in this experience." We note first that the testimony is contradictory. Ciulla first denied flatly that he had been a tout, but the last question and answer in this line could be construed as an admission to being one:

Q. Well, you say fixed races. I'm asking you if you were ever a tout?

A. *Apparently*, I fixed races. I've been convicted. (Emphasis added).

In his FBI statement and grand jury testimony, Ciulla explained that he would approach three or four businessmen, tell them he was fixing a race and if they would put a certain amount of money up front, he would give them the winning combinations on the race. The combinations furnished, however, were not the winning ones; Ciulla "suckered" the businessmen out of their "front" money. We think it significant that Ciulla himself never used the word "tout"; that is the FBI description given to this operation. None of the dictionary definitions of "tout" encompasses the deliberate giving of false information about races. We don't know and do not decide whether Ciulla was a "tout." It is abundantly clear that he was a crook, but the jury knew that. We do not think that this additional confirmation of Ciulla's dishonesty would have made any difference in the jury's credibility assessment of his testimony.

We agree with the district court that an evidentiary hearing was not necessary. We shudder to think of how much time these imaginative and ingenious attorneys would have spent mining the "rich vein of detail" dug out from the 302's to no avail.

II. THE MCCARRON AFFIDAVITS.

Margaret McCarron gave three affidavits relative to her dealings with Ciulla. Two of them are dated April 24, 1980. The third is dated July 28, 1980, the same date on which all three were turned over to Paul Smith and Barry Haight, attorneys for Price and James DeMetri. They can be summarized as follows.

The First Affidavit.

Sometime within the week prior to December 26, 1978, McCarron tried to contact Ciulla, first through Strike Force Attorney O'Sullivan and then through FBI Agent Thomas Daley. McCarron wanted to interview Ciulla because she planned to write a book about him in collaboration with a Dale Austin. Ciulla called McCarron on December 26 and discussed the book; Ciulla told her that he was interested in getting money for himself. From then on Ciulla called McCarron frequently. At times, he appeared to be drunk and calling from bars or nightclubs.¹

McCarron met with Ciulla and his wife, Helen, in Portland, Oregon.² They discussed the writing of a book. Ciulla told McCarron that he wanted to reserve the movie and television rights but he would go along with her if she gave him [\$25,000]. She gave him \$2,000 in cash and got a receipt for it. McCarron had understood from previous telephone conversations with Ciulla that she was to have the movie and television rights. Ciulla, however, struck from a proposed contract her rights to movie and television earnings. She then called Agent Daley who said he was washing his hands of the matter.

Ciulla called McCarron many times after that. At least once he told her he was looking out for himself and intended to make a million dollars out of the movie and television rights. He told her that she was "out" from the first day. He also told her that there were some people against whom he had a personal vendetta and that he was going to accuse them of various crimes. We quote the rest of the affidavit.

He told me that he had lied during the trial of the case in Boston involving Elliot Price and other defendants and that he had brought the Las Vegas people into this case

¹ No date is given in the affidavit, but it seems agreed that this happened after Ciulla testified, but before the trial ended.

because he had been down to Las Vegas and had become drunk and disorderly and that he had lost a lot of money gambling and when he went to get additional credit, he was turned down and that this was the reason why he felt that he would rather bring those people into the case than others to whom he felt a personal loyalty. "My creditability is the most important thing to me because when I get out of this F--- program I am going to get my money for my story. It is my story and I'll lie whenever I feel like it," is what he said to me.

The Second Affidavit.

Ciulla told McCarron over the phone on various occasions that he had to say what the Government people told him to say. He also told her that he and Agent Daley were close personal friends. The affidavit ends with this sentence: "Ciulla told us that Daley and the Justice Department told him what to say in the trial of the case."

The Third Affidavit.

This affidavit is mainly a recital of McCarron's unsuccessful attempts to enter into a contract with Ciulla for writing and publishing a book. She describes her contacts with Dale Austin whom she expected to help her write the book. Austin lost interest early and withdrew from the venture. McCarron then talked to an agent in New York, Sterling Lord, who told her she needed more material. Gerald R. Strine, Editor of the Horseman's Journal, told her that if she would introduce him to Ciulla so that he could get enough information for an outline, there would be an instant advance. She immediately called Ciulla and told him to contact Strine, which he did. Strine interviewed Ciulla for ninety minutes and wrote a three-chapter outline which was submitted to a literary agent, Milton Fenster. Fenster, in turn, submitted the outline to Bantam Books and Columbia Pictures with an asking price of \$500,000. After some negotiations, both Ban-

tam and Columbia turned the deal down. Ciulla told McCarron in early June that he had told Strine to stop trying to sell the property; he was going to sit on it until the New York indictments were handed down. McCarron flew to New York in July to talk to Fenster personally. She told Fenster that "I had been spending my money right and left" and wanted to hear from him why the deal with Columbia Pictures had fallen through. Strine and Fenster then got into a "battle" over the rights to the book (which was still nonexistent). Fenster approached five different movie companies and Mike Wallace of Sixty Minutes, but to no avail. According to McCarron, "[a]ll of the business dealings that I have just put on paper took place during the trial in Boston."

The Counter-Affidavits.

Thomas Daley executed an affidavit on October 10, 1980. He stated that McCarron contacted him in late December, 1978, and requested an interview with both him and Ciulla. He informed her that he could not be interviewed without permission from FBI headquarters and not until the case was fully over in the courts. He said that he would pass on her request to interview Ciulla to the witness protection program. Daley denied any knowledge of McCarron's intention to write a book about Ciulla; she had told him that she was thinking of writing a book about horse racing. Daley stated that he never told Ciulla anything in his testimony "other than to tell the truth about the defendants." Daley's affidavit further states that his relationship with Ciulla was only that of the normal agent-witness one, that Ciulla never discussed any book or movie and television rights with him and that he was not aware of any negotiations between Ciulla and McCarron.

Ciulla's affidavit was executed on November 5, 1980. He admitted talking to McCarron several times about her ideas for a book, but stated that he never gave her permission to represent him. On the occasions that he called McCarron, he

was not intoxicated. Ciulla admitted receiving \$2,000 from McCarron in Portland, Oregon, but stated that he had met with her because she said she would give him \$25,000 for a six months option for the right to write and publish a book on his race fixing activities. He gave her six months to raise the additional \$23,000 and find a publisher. Ciulla denied that he ever told her he needed convictions to bolster his credibility for a book. He denied telling her that his trial testimony was not true or that he falsely accused anyone of a crime because of a personal vendetta. Ciulla stated that he never told McCarron that the Government was telling him what to testify to during the trial and that "at no time during the trial in Massachusetts did I lie or testify falsely."

McCarron filed a further affidavit dated November 13, 1980, in which she said that during her first conversation with Daley, she told him specifically that she intended to do a book about Ciulla. She further stated that prior to the end of the trial, she told Daley that she gave Ciulla \$2,000 in Oregon and wanted it back and Daley told her to contact Ciulla through the United States Marshal's office in Boston.

Ciulla's "Book" Testimony.

During cross-examination, Ciulla admitted that he had been approached about writing a book, but stated that he hadn't dealt with anyone relative to ghost writing or collaborating with him. He agreed that he hoped to write a book. Earlier he had stated that he hoped he would earn some money after he finished testifying. Ciulla denied that he was waiting to negotiate about a book until convictions were returned in the case. He testified that he spoke to a writer from Roper magazine over the phone about a book, but no figures were mentioned.

We agree with the district court that *Agurs* does not apply to the McCarron affidavits. Accepting McCarron's affidavits at face value, this was new evidence of which the Govern-

ment had no knowledge prior to the time Ciulla testified and certainly not prior to trial. See *United States v. Agurs*, 427 U.S. at 111. The standard of review is abuse of discretion. *United States v. Wright*, 625 F.2d 1017 (1st Cir. 1980).

A motion for new trial on the basis of newly discovered evidence will ordinarily not be granted unless the moving party can demonstrate that: (1) the evidence was unknown or unavailable to the defendant at the time of trial; (2) failure to present the evidence was not due to lack of diligence by the defendant; (3) the evidence is material, and not merely cumulative or impeaching; and (4) it will probably result in an acquittal upon retrial of the defendant.

Id. at 1019.

We do not think the district court abused its discretion in finding that the evidence was merely impeaching and that it would not have affected the verdict. Nor do we think that an evidentiary hearing was either necessary or desirable. Such a hearing would essentially have been a swearing contest with McCarron pitted against Ciulla and Daley. There probably would be side excursions involving the others who, along with McCarron, saw in Ciulla a golden opportunity to pander to the public's thirst for an inside view of crime. There is no "smoking gun" evidence or anything approaching it, only the statements of a disappointed opportunist who was bilked out of \$2,000 by one whom she knew was a self-confessed briber, cheat and crook. As we already have noted, the jury was well aware of Ciulla's character and way of life. This was not the straw that would have broken the camel's back; it was just more chaff to scatter in the wind.

III. THE OWEN CLAIM.

Robert Owen was a defendant at the start of the trial. He pled guilty before the trial was over. Ciulla's testimony portrayed him as a willing and eager accomplice who knew to

whom bribe money could be successfully paid. On August 25, 1980, Attorney Paul T. Smith, counsel for defendant Price, executed an affidavit based on three telephone conversations with Owen and a personal meeting with him at the Federal Penitentiary in Allentown, Pennsylvania, on July 22, 1980. In essence, the affidavit states that Owen told Attorney Smith that Ciulla had lied about defendants Price and Goldenberg; that they were innocent. According to the affidavit, Owen told FBI Agent Flaherty, his own attorney, Brian J. McMenimen and Neil Jon Firetog, United States Strike Force Attorney assigned to the Eastern District of New York, that Ciulla had lied about Price's involvement in the race fixing scheme.

Owen executed an affidavit on September 25, 1980, that denied point-by-point the statements attributed to him by Attorney Smith. Agent Flaherty executed an affidavit on November 6, 1980, in which he denied that Owen had told him that Ciulla had lied about Price. In an affidavit dated October 30, 1980, Attorney Firetog completely refuted the statements in the Smith affidavit that Owen had told him that Ciulla had lied about Price and Goldenberg. Firetog also stated that at no time did Owen say that Price and Goldenberg were innocent. Firetog's statement also contradicted Owen's purported statements to Attorney Smith relative to a jockey by the name of Jose Amy. Statements in the Smith affidavit involving alleged conversations between Owen and FBI Agent Martin Conley were denied in an affidavit executed by Conley in October of 1980.

As did the district court, we find it somewhat strange that Owen waited for a year after the trial to try and rescue Price and Goldenberg from Ciulla's alleged perjury. He had two opportunities for baring his breast, when he pleaded guilty and at sentencing. In the light of Owen's affidavit, which is a direct counterpoint to the statements contained in Attorney Smith's affidavit, we see no point in an evidentiary hearing. Under the abuse of discretion test as set forth in *United*

States v. Wright, 625 F.2d 1017, already fully discussed, there is no basis for setting aside the district court's denial of appellants' motions for a new trial.

IV. THE MESAROSH CLAIM.

This is yet another variation on appellants' main theme; Ciulla was lying and the Government knew it. Appellants' attempt to bring this case within the holding of *Mesarosh v. United States*, 352 U.S. 1 (1956), falls far short of the mark. In *Mesarosh* the Solicitor General of the United States moved to remand the case to the trial court because of untruthful testimony given before other tribunals by a Government witness. *Id.* at 3. We do not think that the failure of the United States Attorney in the Eastern District of New York to use Ciulla in a race fixing trial amounts to an admission that the Government knew that Ciulla lied in this case. We would so find even if the New York prosecutor had not filed an affidavit stating, *inter alia*, "I considered using Ciulla as a rebuttal witness, but his testimony proved unnecessary."

Considering his background and way of life, it can always be argued that Ciulla's testimony, or parts of it, was suspect. Under our system of justice, however, the jury determines the credibility of the witness. As we have already noted, Ciulla was subjected to lengthy, intense and skilled cross-examination. Based on the record, we cannot fault the jury's acceptance of Ciulla's testimony. None of the new evidence, either singly or in combination, is sufficiently material to warrant a new trial.

The order of the district court denying appellants' motion for a new trial and an evidentiary hearing thereon is affirmed.